

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

. . . . .  
BARBARA E. VARNER, .  
Plaintiff, . CIVIL ACTION  
vs. . NO. 1:CV 01-0725  
. .  
COMMONWEALTH OF PENNSYLVANIA, . (JUDGE YVETTE KANE)  
NINTH JUDICIAL DISTRICT, .  
CUMBERLAND COUNTY; CUMBERLAND .  
COUNTY; S. GARETH GRAHAM, .  
Individually, and JOSEPH .  
OSENKARSKI, individually, .  
Defendants. .  
. . . . .

VOLUME 2  
Pages 184 to 334

Deposition of: S. GARETH GRAHAM

Taken by : Plaintiff

Date : February 14, 2003, 9:11 a.m.

Before : Emily Clark, RMR, Reporter-Notary

Place : Administrative Offices of  
Pennsylvania Courts  
5001 Louise Drive  
Mechanicsburg, Pennsylvania

APPEARANCES:

DEBRA K. WALLET, ESQUIRE  
For - Plaintiff

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS  
BY: A. TAYLOR WILLIAMS, ESQUIRE  
For - Defendant Commonwealth of Pennsylvania  
Ninth Judicial District, Cumberland County

THOMAS, THOMAS & HAFFER  
BY: PAUL J. DELLASEGA, ESQUIRE  
For - Defendant Cumberland County

APPEARANCES (continued):

MONTGOMERY, McCRACKEN, WALKER & RHOADS, LLP  
BY: DAVID J. MacMAIN, ESQUIRE  
For - Defendant S. Gareth Graham

SWEENEY & SHEEHAN, P.C.  
BY: JASON G. BATES, ESQUIRE  
For - Defendant Joseph L. Osenkarski

ALSO PRESENT:

MS. BARBARA E. VARNER

MR. JOSEPH OSENKARSKI

I N D E X

WITNESS

|                  |             |
|------------------|-------------|
| S. Gareth Graham | Examination |
| By Ms. Wallet    | 187         |
| By Ms. Williams  | 332         |

GRAHAM EXHIBITS

| No. | Description  | Identified |
|-----|--|------------|
| 3   | 1-page photocopy of birthday card                                | 201        |
| 4   | 1-page memo, 6/13/97, to Varner from Osenkarski                  | 278        |
| 5   | 1-page memo, 4/2/97, to Sheely and Graham from Varner, annotated | 288        |
| 6   | 1-page memo, 7/17/97, to Ward and Deluce from Sheely             | 330        |

\* \* \* \* \*

S. Gareth Graham

187

1           S. GARETH GRAHAM, recalled as a witness, previously  
2 being duly sworn, testified further, as follows:

3 BY MS. WALLET:

4           Q.       Good morning, Mr. Graham.

5           A.       Good morning.

6           Q.       May I remind you that are still under oath. Do  
7 you understand that that oath requires you to testify to the  
8 truth today?

9           A.       Sure.

10          Q.       Is there any reason today why you could not  
11 answer my questions completely and truthfully?

12          A.       No.

13          Q.       And if at any time you have not heard my  
14 question, I will expect that you will ask me to repeat it,  
15 and that if you answer a question, you have both heard it and  
16 understood it. Is that agreed?

17          A.       Understood.

18          Q.       You heard a lot of testimony at the last day of  
19 depositions about the seniority issue. Did you have an  
20 opinion with regard to how seniority should be credited for  
21 probation officers?

22          A.       I had no opinion.

23                    Seniority was an issue in our office that was  
24 debated for probably 11 years, the entire time Ken Bolze was  
25 the chief of the Probation office. There was numerous

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S. Gareth Graham

188

1 memorandums. I think there's possibly a real thick file that  
2 was attributed to different people making different  
3 suggestions to Mr. Bolze over the years. I think there was a  
4 number of people that contributed trying to be in a position  
5 to identify what seniority we should go with and how that  
6 should be established. And I'm positive that Dirk Madison  
7 wrote a memorandum to Ken Bolze about the seniority issue.  
8 I'm sure that Tom Boyer wrote a memo about the seniority  
9 issue. And it was just something that was never quite  
10 resolved in the entire time that I was in Probation.

11 So as far as my opinion of it, it didn't really  
12 matter, because Mr. Bolze controlled most of the seniority  
13 and it was his decision on how he was going to apply  
14 seniority in our office, and he did it unfairly and unjustly.

15 Q. And why do you say that?

16 A. Because he counted time for part-time service.  
17 And nowhere in the county manual or nowhere in the county  
18 history was anybody else being attributed part-time service.  
19 So he -- and other men in the office such as Tom Boyer felt  
20 that was discriminatory towards him especially, and that's  
21 why everybody was invited into this issue and out of this  
22 issue and around this issue for almost 11 years.

23 Q. Now, you had prior county time outside the  
24 Probation office, correct?

25 A. Yes, ma'am.

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S. Gareth Graham

189

1 Q. And under the Bolze policy which counted the  
2 county time, you benefitted from that policy, correct?

3 A. In what regard did I benefit?

4 Q. Well, you were granted more seniority because  
5 your time outside the Probation office was counted towards  
6 seniority.

7 A. No, ma'am. I was granted county seniority  
8 because the county seniority policy was continuous service,  
9 years of continuous service. That didn't, that wasn't  
10 necessarily the case with Probation seniority. Mr. Bolze  
11 dated that I understand Probation seniority sometime from the  
12 point where you came into the office for office, some  
13 office-related matters.

14 So your questions I think the other day were  
15 attributed to Mr. Osenkarski about how was this certain  
16 policy, and that was the October factor that was used in  
17 promotions, and that's just not true, because there was a man  
18 promoted years ago named John Roller who sits in the Adult  
19 chief that was promoted over a man named Bob Houser. And my  
20 recollection of that was the fact that I think maybe  
21 Mr. Houser had more seniority than Mr. Roller. So that  
22 wasn't the only situation.

23 And then there was a situation I think on the  
24 Adult side that transpired where Lyle Herr was, who sits as  
25 the Adult supervisor, was promoted over a man by the name of

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S. Gareth Graham

190

1 Charles McKenrick, who had more Probation seniority. And  
2 this is, this was a very hot potato as far as how they count  
3 seniority, because Mr. McKenrick had been over in Perry  
4 County working as a probation officer in Perry County for a  
5 number of years, and he was disappointed that here we were  
6 counting, according to Mr. Bolze, in some regards all county  
7 probation. That meant if you worked in Children and Youth,  
8 that meant if you worked as a maintenance man, that meant if  
9 you worked as a, in any capacity in any county position, you  
10 would be in a position to have continuous county service.  
11 And I think what we tried to do when we split the staffs is  
12 to try to make a decision on how we were going to look at  
13 different individuals in the Probation office so that we  
14 would have an element of fairness.

15 Q. Now, you said you had no opinion with regard to  
16 this issue. Is that correct?

17 A. I wasn't involved in the mechanics of realigning  
18 this seniority issue. I was consumed in other office  
19 affairs.

20 Q. Did you ever express your opinion on the  
21 seniority issue?

22 A. It didn't matter if you expressed your issue.  
23 With Mr. Bolze, he made up his mind on how he was going to  
24 apply seniority, and sometimes it would be one way, and  
25 sometimes it would be some other way.

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S. Gareth Graham

191

1 Q. So your position was that Bolze was not  
2 consistent on his policy?

3 A. He was never consistent, you're absolutely right.  
4 I don't see him being consistent in any of that, because, you  
5 know, there was so much issues where McKenrick had gone to  
6 him and said here you're going to count county seniority and  
7 they might have worked in a completely different office with  
8 different responsibilities. We had that. We had Lyle Herr  
9 coming from the Sheriff's Department, we had Mike Piper  
10 coming from the Sheriff's Department. But here we had a man  
11 that had probation experience in the same venue of what we,  
12 how we operate in Probation, and he was just ignored because  
13 he came from another county. So it didn't make any sense to  
14 be in a position to try to align Probation seniority without  
15 looking at relative probation experience. And that's exactly  
16 what we tried to do.

17 Q. Now, you had time in the Recorder of Deeds  
18 office, correct?

19 A. Yes, ma'am.

20 Q. Did you have time in any other county offices  
21 prior to assuming your probation work?

22 A. No, ma'am.

23 Q. But you got credit for your Recorder of Deeds  
24 time, did you not?

25 A. It's interesting, if you look at the documents

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S. Gareth Graham

192

1 that supposedly are in this seniority issue, my seniority was  
2 dating back from my date of hire in the Probation office,  
3 which was sometime in 19 -- September 1977.

4 Q. So you're saying your understanding is you got no  
5 credit for your time in the Recorder of Deeds office?

6 A. I got county seniority, ma'am. I got county  
7 seniority from the time that I started with the county in  
8 July 26th of 1976. And I worked a little over a year in the  
9 Recorder of Deeds office, and then had applied to Probation,  
10 took a pay cut, took a pay cut and went into the field of my  
11 endeavors with my college and everything else.

12 Q. And when you were promoted from a PO-I to a PO-II  
13 in 1985, your time with the Recorder of Deeds was counted,  
14 wasn't that correct?

15 A. You would have to ask Mr. Bolze that question.

16 Q. You don't know?

17 A. I don't know in -- no, I don't know.

18 Q. Are you aware of any other individuals in the  
19 Juvenile Probation office that county time, counting it or  
20 not counting it, applies to, other than Barbara Varner?

21 A. I don't understand your question, ma'am.

22 Q. Are you aware of anyone else in the Juvenile  
23 Probation Department for whom there is a significance with  
24 regard to counting prior non-Probation office time?

25 MR. MacMAIN: Objection to form. I'm not sure I



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S. Gareth Graham

193

1 understand your question.

2 BY MS. WALLET:

3 Q. Well, do you agree, sir, the issue is do you  
4 count only time beginning when you started in the Probation  
5 office or do you count time when you began with the county  
6 outside the Probation office?

7 MR. MacMAIN: At what time? What time period are  
8 we talking?

9 BY MS. WALLET:

10 Q. The controversy over 11 years. Wasn't that part  
11 of the controversy?

12 A. That was some of the controversy, right.

13 Q. And some of the other controversy was part-time  
14 versus full-time?

15 A. Yes. And credit for other out-of-county service  
16 was another issue, whether Mr. McKenrick should be punished  
17 for not being in a position of having any credit towards his  
18 probation experience in Perry County. So there was --

19 Q. Okay. Anything else?

20 A. No.

21 Q. Those were the three issues?

22 A. That I'm aware of.

23 Q. I'm asking you about only one of those issues,  
24 that's the issue of whether or not you count prior time with  
25 the county before you joined the Probation office.

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S. Gareth Graham

194

1           A.       You're asking me to define something that I don't  
2     know how Mr. Bolze applied this. That's what you're asking  
3     me to define. I don't know how he applied what he used as  
4     opposed to seniority or when he started or when he stopped.  
5     It was never clear, ma'am. There was never that I understand  
6     a written policy. I've seen the documents that you've  
7     provided, but I never knew the issue to be resolved.

8           Q.       Okay. Now, at some time after the split it was  
9     resolved, correct?

10          A.       We made an attempt in Probation, Juvenile  
11     Probation, to resolve it. But the interesting paradox to  
12     this is I don't even know where the seniority list, since  
13     I've been relegated to the prison for the last five years, I  
14     don't even know where I stand on the seniority list in the  
15     Adult Probation office. I don't think there's one of those  
16     that exists, either, after five years of this controversy.  
17     So there is no Adult, that I know of or am aware of where I  
18     stand on my seniority in the Adult Probation office.

19          Q.       Let's talk about the period between the time of  
20     the split and the time that you were demoted to the prison.  
21     Okay? Are we clear on the time frame?

22          A.       The time of the split up until where I'm working  
23     now.

24          Q.       Correct. Are you clear on what time I'm speaking  
25     about?

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S. Gareth Graham

195

1 A. Yes, ma'am.

2 Q. All right. During that period of time, there was  
3 a change in the prior policy; no matter what Mr. Bolze's  
4 policy was, it was changed. Correct?

5 MR. MacMAIN: If you can answer it. If you're in  
6 a position to know what the policy was, you can answer it.  
7 If you don't, then you can't.

8 THE WITNESS: There was a proposal made to try to  
9 identify and rectify the seniority issue in the Probation  
10 office at the time of the split by the Juvenile Probation  
11 Department. The Adult side did not clarify the issue, did  
12 not approach the issue, and did not by default make a  
13 position on seniority.

14 They have also been in a position to try to  
15 identify where a seniority list lies, because they have an  
16 obligation by receiving state and federal reimbursement,  
17 there are certain regulations and one of the regulations is  
18 that they have a posted seniority list.

19 MR. MacMAIN: Gary.

20 THE WITNESS: And the Adult side has no posted  
21 seniority list to identify the seniority issue.

22 BY MS. WALLET:

23 Q. Did you ever ask for one?

24 A. No.

25 Q. Talking about the time between the split and when

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S. Gareth Graham

196

1 you left for the prison. Did you play any role in that  
2 proposal to change the existing seniority policy?

3 A. Mr. Osenkarski delegated that issue of seniority  
4 to Mr. Boyer. And did I play any role in that? Not until  
5 the document was proposed, and I don't know when it was  
6 adopted, because that's when this other controversy came up.

7 Q. Did anybody ask you your opinion with regard to  
8 the proposed change?

9 A. My opinion was that we needed to clarify the  
10 seniority issue once and for all and that we should probably  
11 be in a position to identify relevant probation experience.

12 Q. Did anyone come to you, sir, and ask you your  
13 opinion on the seniority issue?

14 A. I think Mr. Boyer asked my opinion.

15 Q. And what did you respond?

16 A. And I said that the seniority regarding the  
17 Probation office should date from the time someone comes in  
18 and starts full-time service in the Probation, in the  
19 Cumberland County Probation office. I wasn't interested in  
20 giving total credit for out-of-county service because that  
21 didn't seem to be fair for the people that chose to work in  
22 Cumberland County and commit to the cause and, you know, and  
23 commit to the organization. So you couldn't be in a position  
24 to give credit for, you know, out-of-county when even though  
25 it was relevant experience.

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S. Gareth Graham

197

1 Q. Okay. What was your position on full-time versus  
2 part-time?

3 A. I have very, very strong opinions against  
4 part-time work, and that's due to a lot of the shenanigans  
5 that have transpired in the county courthouse about who's on  
6 part-time and who's not on part-time, who's working full-time  
7 jobs and/or and actually being in the office. I have very  
8 strong opinions against part-time credit being given.

9 Q. Okay. And what shenanigans are you referring to,  
10 sir?

11 A. Just other issues where there's other employment  
12 throughout the county where people have been given credit for  
13 working full-time and maybe pursuing their law degree during  
14 the day at the local law school at Dickinson.

15 Q. Specifically what people?

16 A. I don't know if I want to mention that today.

17 Q. Why not?

18 A. Well, I don't know if I would be in a position to  
19 be sued if I would relate that information.

20 Q. Which people?

21 MR. MacMAIN: I'm going to object. Does this  
22 have any relevance to the issue, the probation seniority  
23 issue?

24 MS. WALLET: I don't know.

25 MR. MacMAIN: I'll ask this. Is there anybody in

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S. Gareth Graham

198

1 the Probation Department that would be responsive to the  
2 question? Or is it other departments besides Probation?

3 THE WITNESS: It has nothing to do with the  
4 Probation Department.

5 BY MS. WALLET:

6 Q. So these shenanigans that you identified are  
7 something outside the Probation office?

8 A. Absolutely.

9 Q. What offices are they in?

10 A. Mostly out of the commissioners' office.

11 Q. Did you prepare any writings with regard to the  
12 seniority issue?

13 A. Absolutely not.

14 Q. Now, at the time of the split you were already a  
15 senior probation officer II, correct?

16 A. No.

17 Q. At the time of the split you were only a PO-I?

18 A. No.

19 Q. What was your position at the time of the split?

20 A. I was a PO-II.

21 Q. But not senior PO-II?

22 A. No.

23 Q. When were you made senior PO-II?

24 A. The confusing part of this, Ms. Wallet, is the  
25 senior PO position is a position underneath the PO-II

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S. Gareth Graham

199

1 position.

2 Q. Okay.

3 A. So I'll just try to clarify that for you.

4 Q. So at the split you were a supervisor?

5 A. No. I was a PO-II.

6 Q. But you acted as a supervisor?

7 A. No. I had a regular caseload, and the only time  
8 I was in a supervisory capacity is when I was delegated to  
9 be. I had no administrative position, nor did David Meyers  
10 have any administrative positions to handle under that  
11 position.

12 Q. Well, now I am confused, sir. At the time of the  
13 split did you have probation officers reporting to you?

14 A. At the time of the split I became -- I'm sorry.  
15 I became a supervisor.

16 Q. Okay. And you had probation officers reporting  
17 to you, did you not?

18 A. Yes.

19 Q. And who were those individuals?

20 A. Whoever was in the office at that time.

21 Q. All of them?

22 A. Yes.

23 Q. Did you do their performance evaluations?

24 A. You know, I don't think I did. I contributed to  
25 the performance evaluation but I think Mr. Osenkowski did the

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S. Gareth Graham

200

1 performance evaluation, as I recall. Because I was just  
2 newly assigned and didn't have any experience with that. So  
3 I talked to him about case assignments, I talked to him about  
4 other things that he asked me to contribute to in regard to  
5 the performance of people, yes. Did I actually do it? I  
6 think we co-did it, or we --

7 Q. Were you paid more for your supervisory duties?

8 A. Yes, ma'am.

9 Q. And what supervisory duties did you perform that  
10 warranted your being paid more?

11 A. I was in charge of basically case management in  
12 the Probation Department.

13 Q. And what did that mean?

14 A. That meant from the time cases were referred they  
15 were sent to my office to distribute to the rest of the staff  
16 on assignment.

17 Q. And Mr. Osenkowski gave you that position,  
18 correct?

19 A. No. Judge Sheely gave me that position.

20 Q. Do you know whether Mr. Osenkowski made a  
21 recommendation that you be placed in this position?

22 A. I think he and Mr. Bolze and Mr. Roller presented  
23 that as an option to the Court on how to divide the staffs  
24 and who would be moving to the responsible positions.

25 MS. WALLET: I'd like to show you what we'll mark



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S. Gareth Graham

201

1 as Deposition Exhibit 3.

2 (Graham Deposition Exhibit No. 3 was marked.)

3 BY MS. WALLET:

4 Q. Do you have what we've marked as Deposition 3?

5 A. Yes.

6 Q. Do you recognize that, sir?

7 A. Faintly. I recognize my name on the bottom of  
8 it.

9 Q. Is that your signature on Deposition 3?

10 A. It's my name.

11 Q. Well, is it your signature?

12 A. I think it is.

13 Q. Why aren't you sure?

14 A. I don't remember the card specifically.

15 Q. Well, do you know whether you gave this card to  
16 Barbara Varner?

17 A. I would imagine I did. I don't totally remember  
18 the card.

19 Q. Do you remember purchasing this card?

20 A. Not really.

21 Q. Well, do you remember your testimony that you  
22 made some efforts to try to find when this card was  
23 manufactured?

24 A. Absolutely.

25 Q. Why did you do that?

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S. Gareth Graham

202

1           A.       Because the county, when they called me in on  
2   April 29th, questioned me about a card. And I asked  
3   Mr. Deluce, I said, well, I don't remember any card. I said,  
4   I don't think I gave her any card. I said, I want to see a  
5   copy of the card, I said, because I couldn't remember it.  
6   And he never provided the card.

7                   And just recently did I ever see the card. I  
8   mean, just within the past probably four months is the first  
9   time the card was ever produced for me to visualize and  
10   identify.

11          Q.       And when did you see this card in the last four  
12   months?

13          A.       I don't know. It was part of a --

14                   MR. MacMAIN: I'll represent it was part of  
15   obviously the litigation process.

16   BY MS. WALLET:

17          Q.       Did your lawyer give you this card?

18          A.       Yes.

19          Q.       Now, having looked at this card within the last  
20   four months and today, do you remember anything about this  
21   card?

22          A.       I remember -- I remember that that's my signature  
23   and I remember that I probably gave her that card at some  
24   juncture.

25          Q.       Do you remember whether you gave it to her on her

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S. Gareth Graham

203

1 actual birthday?

2 A. Well, I know her birthday to be January 18th, so  
3 I probably would have given it to her on her birthday.

4 Q. Did you give it to her personally or did you mail  
5 her the card?

6 A. Personally.

7 Q. Did she open it in your presence?

8 A. I don't remember that. Probably. I wouldn't  
9 have sent it to her.

10 Q. Why did you give her this card?

11 A. Because we were involved in a relationship since  
12 1990 to 1996.

13 Q. And do you believe you gave this to her sometime  
14 close in 1990 or sometime closer to 1996?

15 A. That's what I've recalled since I've seen the  
16 card, and I recall that once I saw the card, that it, when  
17 the county was questioning me whether I gave her a birthday  
18 card in 1996, my answer was no, I didn't. And that card was  
19 not given to her in 1996.

20 Q. Okay. So we know it wasn't 1996.

21 A. Do I know when it was? It could have been  
22 anywhere during the period of 1990 to probably in the  
23 beginning of our relationship.

24 Q. Okay.

25 A. So I would say probably the first three or four

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S. Gareth Graham

204

1 years of the affair.

2 Q. Okay. Did you ever give her any other cards for  
3 her birthday?

4 A. I don't think so.

5 Q. Why not?

6 A. Why not?

7 Q. Why not?

8 A. Probably I was too cheap.

9 Q. Did you give her any Valentine?

10 A. No. But I kind of recall our first relationship  
11 was on Valentine's Day, first time we had intercourse.

12 Q. Did you give her any gifts other than cards?

13 A. I had bought some small gifts. Do I have any  
14 receipts? No. I mean, I think I got her a couple bracelets  
15 from Boscov's.

16 Q. How many bracelets?

17 A. I don't know. I wouldn't know.

18 Q. Were these on the occasion of some event?

19 A. Just different type of interactions that we had  
20 over the years. You know, when it would become more positive  
21 and more intimate, maybe something like that was done other  
22 than going out to eat with her.

23 Q. Okay. Other than these more than one bracelet do  
24 you remember any other gifts you gave her?

25 A. No.

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S. Gareth Graham

205

1 Q. Did you give her any other gifts?

2 A. I just answered that.

3 Q. Well, I guess it's a different question. Did you  
4 give her any gifts, you think but you can't remember what,  
5 or --

6 A. No, I didn't say that.

7 Q. Okay. Let me ask the question. Did you give her  
8 any other gifts besides the bracelets that you just  
9 mentioned?

10 MR. MacMAIN: That he can recall.

11 THE WITNESS: I said I couldn't recall anything  
12 else.

13 BY MS. WALLET:

14 Q. Did you mark any of your anniversaries of  
15 beginning your relationship with her?

16 A. No.

17 Q. Did you ever tell her that you loved her?

18 A. No.

19 Q. Did you love her?

20 A. No.

21 Q. Did you ever give her any notes that were of a  
22 personal nature?

23 A. Don't know. I don't remember any but I won't  
24 say, I won't deny I wrote her a note here and there. In what  
25 regard? Kind of note? I mean, it might have been do you

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S. Gareth Graham

206

1 want to meet somewhere, or you want to -- I mean, I don't  
2 know what type of note you're talking about.

3 Q. Any kind of note.

4 A. Any intimate note, I don't remember ever giving  
5 her any intimacy note in any regard.

6 Q. Okay. But you might have given her some piece of  
7 paper that indicated where and when to meet?

8 A. Something to that nature. I'm not admitting  
9 that. I'm saying something like that could have happened, I  
10 could have scribbled a note to her. We met clandestinely,  
11 you know, at a lot of different locations. So could I have  
12 scribbled a note and gave it to her? I might have. I don't  
13 remember, though.

14 Q. Do you remember what you wrote on the envelope  
15 for this particular card marked Deposition 3?

16 A. No, ma'am.

17 Q. What did you call her?

18 A. Barb.

19 Q. Did you have any other pet names for her?

20 A. No, ma'am.

21 Q. Nothing like sweetheart, honey, any of those?

22 A. No.

23 Q. Now, there was Barb 1 and Barb 2. Which was your  
24 wife and which was Ms. Varner?

25 A. That was a rumor that was circulated in the

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S. Gareth Graham

207

1 office. I had nothing to do with any of that, and you'll  
2 have to ask the people that authored the Barb 1 and Barb 2  
3 who was who.

4 Q. And who would that be?

5 A. I don't know. I just told you that.

6 Q. I see. So you never heard anybody say Barb 1,  
7 Barb 2?

8 MR. MacMAIN: That's not what he said.

9 THE WITNESS: That's not what I said.

10 BY MS. WALLET:

11 Q. Did you hear anyone use the term Barb 1, Barb 2?

12 A. I heard it used in the office. I don't know  
13 specifically who to attribute it to.

14 Q. Well, who do you remember using this term?

15 A. Maybe some of the secretaries. Maybe Tom Boyer.  
16 Maybe Darby Christlieb. I don't know. Maybe Denny Drachbar.  
17 Maybe Sam Miller.

18 Q. Well, it could be maybe anybody in the office,  
19 correct? I'm asking you, what do you remember about  
20 individuals who used this term Barb 1 Barb 2?

21 A. And I testified earlier that I didn't remember  
22 who was attributed to the remarks.

23 Q. Well, did you ever get a telephone message from  
24 someone that said Barb and you had difficulty deciding  
25 whether it was your wife or Barbara Varner?

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S. Gareth Graham

208

1           A.       No. We had a type of a clandestine relationship  
2 with the phone business where when Mrs. Varner would contact  
3 me or Barb would contact me, she would let it ring three  
4 rings. If I didn't pick up in three rings, we knew that the  
5 message then would go out to the front secretary so she would  
6 always hang up the phone.

7                   So due to the multitude of hang-ups when the  
8 secretaries received the call coming through on my phone,  
9 they became suspicious of our relationship because we had a  
10 personal friendship and throughout the -- we had a personal  
11 relationship that people wanted to gossip about.

12          Q.       I don't understand, sir. What was suspicious  
13 about Ms. Varner calling you on your office phone?

14          A.       The multitude of times that she would call and  
15 the multitude of times that the receptionist, Ronna Boyles  
16 or -- would pick up the phone and there would be nobody on  
17 the other end.

18          Q.       And Ronna Boyles assumed that was Barbara Varner?

19          A.       I think so. And so did Denny Drachbar.

20          Q.       And how would they know that that would be  
21 Barbara Varner allowing it to ring three times and then  
22 hanging up?

23          A.       Not just the phone call. They would know just  
24 due to the interaction between Barb and I on individual  
25 cases. I testified the other day that we had -- we shared



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S. Gareth Graham

209

1 companion cases quite frequently, and we would go out and  
2 supervise, or she would implore me to go with her to a  
3 dangerous situation.

4 Q. In fact, you insisted that she come with you on  
5 those trips, did you not?

6 A. That was both ways. No, that went both ways. In  
7 regard to the Fahnestocks, you know, she wanted me to come  
8 along because the defendant I was working with had been  
9 involved in a gun incident with his father, and that's why he  
10 was under parole, because of the pulling the gun and  
11 displaying the gun, a rifle. That happened to be a very  
12 secluded location back in the woods behind the PPG plant out  
13 in Mount Holly. So it was -- it wouldn't have been a  
14 comfortable setting for any woman to drive back this long  
15 lane in back of the PPG plant in the mountains to go visit  
16 her kids that she had on the dependency concerns with that  
17 family.

18 Q. Okay. Ms. Varner was assigned to supervise a  
19 part of that family, you were assigned to supervise another  
20 part of that family?

21 A. Yes.

22 Q. So it certainly wouldn't be unusual that the two  
23 of you would go to this location at the same time, correct?

24 A. I don't recall being at the location other than  
25 the time she requested me to go along with her out there.

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S. Gareth Graham

210

1 Q. Okay. But the request that you go with her would  
2 not be unusual, inasmuch as you had work-related reasons to  
3 be there and so did she?

4 MR. MacMAIN: Objection. I think he just  
5 answered it that sometimes it would be requested, sometimes  
6 it wouldn't.

7 MS. WALLET: Well, my question was was it an  
8 unusual request. I don't think he answered that.

9 THE WITNESS: I don't know what unusual or usual  
10 is. I don't understand what you mean by usual or unusual.  
11 It wasn't unusual to supervise the same family that we were  
12 involved in. But there was unusual times where she would  
13 make extra requests for me to go along where I didn't have  
14 anyplace to go along

15 BY MS. WALLET:

16 Q. Okay. And were there times when you made  
17 requests that she go along when she ordinarily would not have  
18 had any reason to go?

19 A. Absolutely, sure. She went on commitment trips  
20 with me where she had no relevance to the actual case, but  
21 she was a volunteer that would ride along with me to  
22 different institutions.

23 Q. And your testimony is that it was totally her  
24 idea, not your idea?

25 MR. MacMAIN: Objection.

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S. Gareth Graham

211

1 THE WITNESS: That's not my testimony.

2 MR. MacMAIN: Objection. What he said is  
3 sometimes it was her idea and sometimes it was his idea.

4 BY MS. WALLET:

5 Q. Okay. You would agree there were times when you  
6 as her supervisor assigned her to come on commitment trips  
7 with you?

8 A. No. No, ma'am.

9 Q. No assignment?

10 A. No assignments.

11 Q. I see.

12 A. Commitment trips were a volunteer basis for the  
13 most part. Most times when it was your own kid that you were  
14 dealing with that was committed, those were the people  
15 responsible. But there was a lot of people in the office did  
16 not like to go on these commitment trips because they  
17 required extended hours, extensive travel. And we,  
18 Mr. Osenkowski had a flexible schedule to that. He said if  
19 you can find somebody else that wants to go along or will go  
20 along, you may take them, you know, those two people may go  
21 on the trips.

22 Q. Was there any requirement that more than one  
23 probation officer go on these commitment trips?

24 A. There was always a requirement two probation  
25 officers went on those trips.

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S. Gareth Graham

212

1 Q. And why was that, sir?

2 A. Just for liability concerns and safety concerns.

3 Q. Specifically what safety concerns?

4 A. Oh, my. Plenty. Fights. Arguments.

5 Contraband. I can testify most of the morning as to the  
6 safety concerns. We had kids fighting in the courthouse. We  
7 had kids throwing the defendant's tables in the judge's  
8 chambers. We had kids fighting in the hall. We had kids  
9 fighting in our offices.

10 It was a traumatic time for a kid to be sent away  
11 by judicial order to an institution for the next 12 months of  
12 his life, and they weren't willing to go sometimes.

13 Q. So the safety concern was it was thought that it  
14 was better to have two adults along with one juvenile in case  
15 there were problems?

16 A. Yes, ma'am.

17 Q. Were there any rules about having a probation  
18 officer of the same sex go on these commitment trips?

19 A. I don't recall any rules of any gender  
20 differentiation between who you would take or who wouldn't  
21 take. I mean, Ms. Varner was included the same as was Nicole  
22 Galbraith, or Nicole Horick at the time. She went with me on  
23 trips. There was different people. And I usually went on a  
24 lot of trips because I enjoyed that part of the job and it  
25 gave me the opportunity to meet with the administrators at

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S. Gareth Graham

213

1 the placement facilities.

2 Q. In fact, you volunteered for as many of those  
3 trips as you could, correct?

4 A. No. I would volunteer when somebody else would  
5 not want to go.

6 Q. Now, was it ordinary that the person who had  
7 previously supervised a particular juvenile take that  
8 juvenile on the commitment trip?

9 A. I testified earlier that usually the  
10 responsibility remained with the person that was assigned the  
11 juvenile, and if that juvenile got placed, that would be the  
12 PO that was responsible to make arrangements for the  
13 transportation of that juvenile to the institution he was  
14 placed at.

15 Q. And that probation officer would either take the  
16 juvenile him or herself, or get somebody else to do it?

17 A. He would decide on taking the person and then  
18 recruiting another person to accompany him.

19 Q. And it became known, did it not, that you were  
20 one of the individuals who liked to take these trips?

21 A. Known to who?

22 Q. The other probation officers.

23 MR. MacMAIN: I'll object as to what other people  
24 thought or believed or knew.

25 THE WITNESS: I don't know how to answer that.

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S. Gareth Graham

214

1 BY MS. WALLET:

2 Q. Well, if a probation officer needed to recruit  
3 someone to accompany him or her, there were certain people in  
4 the office who didn't like to do it, and there were other  
5 people who did, correct?

6 A. Yes.

7 Q. Okay. Give me the list of the people who didn't  
8 like to do it.

9 A. I don't know. You're asking me to recount things  
10 that were back 10 and 15 years ago and who wanted to go on a  
11 certain commitment trip. That's ludicrous.

12 Q. You don't remember?

13 A. I don't remember.

14 Q. You do remember you liked to go?

15 A. Yes.

16 Q. And you think you kept that completely to  
17 yourself, you didn't tell anybody else that you liked to go?

18 A. Oh, come on.

19 MR. MacMAIN: Objection. That's argumentative.  
20 He's already testified he likes to go. He also testified he  
21 can't tell you who, what other people thought. I think  
22 that's been asked and answered, and I think we can move on.

23 BY MS. WALLET:

24 Q. If I looked at the statistics, sir, of how many  
25 commitment trips the individual probation officers took,

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S. Gareth Graham

215

1 would you be on the list of having among the highest of the  
2 trips?

3 A. Yes.

4 Q. Now, did Ms. Varner like to go on these  
5 commitment trips?

6 A. She evidently did, because she was with me for  
7 almost 24 trips between '95 and the time she made her  
8 Complaint.

9 Q. Did she ever complain to you that she did not  
10 want to go on these commitment trips?

11 A. Not at all.

12 Q. Did you ever say to her: If you don't like to do  
13 this kind of work, you can go back to your work in Children  
14 and Youth?

15 A. That's not true at all.

16 Q. You never said that?

17 A. Never said that at all. That's a complete  
18 fabricated lie if that's what her testimony is.

19 Q. Did you ever say that in reference to any other  
20 work besides commitment trips?

21 A. No.

22 Q. Did you ever say anything to her that suggested  
23 that you thought social work was somehow lesser work than  
24 probation officer work?

25 A. That's another fabricated lie, if that's the

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S. Gareth Graham

216

1 testimony. No, I never said that.

2 Q. Did you think that?

3 A. No.

4 Q. How many siblings in your family?

5 A. Two children.

6 Q. And was the other child a boy or a girl?

7 A. Both children were girls.

8 MR. MacMAIN: She's asking about his family,  
9 whether he has siblings.

10 THE WITNESS: Oh, I'm sorry.

11 MR. MacMAIN: That's fine. It wasn't clear.

12 THE WITNESS: Okay. You want to know in my  
13 immediate family. I have one sister.

14 BY MS. WALLET:

15 Q. And what was your relationship to your sister?

16 A. A brother.

17 Q. Well, I'll grant you that. How would you  
18 describe your relationship with your sister?

19 MR. MacMAIN: That's a better question.

20 THE WITNESS: Very positive.

21 BY MS. WALLET:

22 Q. Is she an older or younger sibling?

23 A. She's an older.

24 Q. How much older?

25 A. Almost two years. Within a few months of two



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S. Gareth Graham

217

1 years older.

2 Q. Does she work outside the home?

3 A. Yes.

4 Q. What does she do?

5 A. She's a school nurse in the Ocean City, New  
6 Jersey, school system.

7 Q. Is she a registered nurse?

8 A. Yes, ma'am.

9 Q. Where did she go to school?

10 A. Temple University.

11 Q. Is she married?

12 A. Yes.

13 Q. Does she have children?

14 A. Two children.

15 Q. Boys or girls?

16 A. One boy and one girl.

17 Q. How old are they?

18 A. Sarah just turned 21, and Mark is 18, or he'll be  
19 18 on April 11th. So he's 17, soon to be 18.

20 Q. Were your parents married more than one time?

21 A. One time.

22 Q. For life?

23 A. Yes, ma'am.

24 Q. And I know that your father is deceased. Is your  
25 mother still alive?

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S. Gareth Graham

218

1           A.       No, she's deceased.

2           Q.       And did your father die before your mother?

3           A.       He died in I think 1991. August 22nd.

4           Q.       And when did she die?

5           A.       January 4th of '98.

6           Q.       Did you ever tell your mother about your

7 relationship with Ms. Varner?

8           A.       No, ma'am.

9           Q.       Why not?

10          A.       No specific reason. I was probably embarrassed.

11          Q.       I believe I asked you this before. You did not

12 tell your father, either, correct?

13          A.       No. No.

14          Q.       He was really deceased before you began this

15 relationship?

16          A.       He was dying of cancer about the time I met

17 Mrs. Varner. And that was one of the things I confided with

18 her about, how upset I was, you know, for him dying of

19 cancer.

20          Q.       How would you describe your relationship with

21 your mother?

22          A.       Wonderful.

23          Q.       Were you close to her?

24          A.       Sure.

25          Q.       Was she close to you?

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S. Gareth Graham

219

1 A. Yes.

2 Q. What was your childhood like?

3 A. Wonderful.

4 Q. What was wonderful about it?

5 A. Just very satisfying, very fulfilling. Very  
6 loving, very nurturing.

7 Q. How would you describe --

8 A. A lot of commotion. My parents had a store,  
9 Ms. Wallet, and a lot of my excitability and a lot of my  
10 personality is probably developed over that drugstore,  
11 because what my dad did was run a little convenience store,  
12 and he was in that store from seven o'clock in the morning  
13 till ten o'clock at night. So what that meant is our family  
14 interactions were limited. As far as having a sit-down meal,  
15 it was unheard of. And my recollection of what my mom used  
16 to say, get the hell down to the store and let him come home  
17 to eat. That's how we had meals.

18 So some of my personality probably is formulated  
19 by the rearing process of having a store being open 365 days  
20 a year, my dad being in that store from seven o'clock in the  
21 morning sometimes till 10 ten o'clock at night, and my  
22 personality as well as my sister's probably are adaptive to  
23 that type of setting. And that's why I talk fast, I reason  
24 fast, and because we had no time to settle, you know,  
25 differences in the family or differences in things that would

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S. Gareth Graham

220

1     come up. We just, our life revolved around that store.

2           Q.     Did your parents have a good sexual relationship?

3           MR. MacMAIN: Objection. If you know.

4           THE WITNESS: I don't know. They consummated two  
5     children so I'm sure they had something that was positive.

6     BY MS. WALLET:

7           Q.     To the best of your knowledge, did either of them  
8     have any affairs?

9           A.     Not at all, that I know of.

10          Q.     Do you believe that you would know if that were  
11     the case?

12          A.     Absolutely. My family was in a public arena. I  
13     mean, we operated a store in a small town. Everybody knew  
14     everything about everybody. I'm sure I would have heard  
15     that.

16          Q.     Did you ever say to anyone in the workplace: In  
17     Newville men own their women?

18          A.     That's not true.

19          Q.     You never said that?

20          A.     No. I think that was attributed to Kerry Houser  
21     claiming I said that when Joe was going through his first  
22     business with her. Kerry says a lot of things, Ms. Wallet.

23          Q.     You believe her to be untruthful?

24          A.     Yes.

25          Q.     Could you give me some examples of why you

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S. Gareth Graham

221

1 believe her to be untruthful?

2 A. Just different defendants I even work with in the  
3 Adult section feel that she's less -- she's disingenuous with  
4 her cases.

5 Q. Well, I'm not asking about anyone else. I'm  
6 asking you, what has caused you to conclude that she is  
7 untruthful?

8 A. Because I think she was part of the rumor mill  
9 that established two probation officers in our office being  
10 arrested by the Attorney General's Office over 10 years ago,  
11 and/or and then -- or not arrested, I'm sorry, investigated  
12 by the Attorney General's Office. And subsequent  
13 investigation proved that they were innocent and there was  
14 never any charges pending.

15 But there was a vicious rumor mill regarding a  
16 Mike Dunsmore and a Paul Meuron, and that rumor got  
17 circulated in our office, and I believe Kerry to pass that  
18 rumor on, maybe to Judge Bayley. That's what I had heard. I  
19 don't have any person and I have no firsthand knowledge of  
20 that. But Kerry was one of the ones that was circulating  
21 trying to have these men arrested, you know, for something  
22 that they really didn't do.

23 Q. So you believe that Kerry Houser made some  
24 allegations against Mike Dunsmore and Paul Meuron?

25 A. She was part of the office parade that were

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S. Gareth Graham

222

1 making accusations against those two men 10 years ago, or  
2 longer than that. It's 15 years ago now, I think.

3 Q. And how do you know that, sir?

4 A. There was newspaper articles and -- how do I know  
5 about what?

6 Q. How do you know that she was the one that made  
7 the allegations?

8 A. I think it was told to me that she was the one  
9 that went up to Judge Bayley and was complaining to Judge  
10 Bayley about the commotion about these two men with this DUI  
11 school.

12 Q. Okay. And were either Mr. Dunsmore or Mr. Meuron  
13 terminated?

14 A. No. They both had sought other employment and  
15 left.

16 Q. And your understanding --

17 A. They were vindicated by the Attorney General's  
18 Office. They were never charged.

19 Q. And what did you believe the allegations of  
20 Ms. Houser were against these two men?

21 A. What I believe is that I was told she was one of  
22 the persons that went up to Judge Bayley to try to have this  
23 matter investigated.

24 Q. And what was this matter, sir?

25 A. This matter of these men supposedly forging names

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S. Gareth Graham

223

1 on some DUI rosters.

2 Q. It had something to do with individuals being  
3 paid based on the number of individuals in the DUI school?

4 A. It had to do with -- what I understand of that  
5 mess was that Mr. Meuron ran the DUI program and the ARD  
6 program along with Mike Varner, and Mr. Meuron and  
7 Mr. Dunsmore taught together. And during their teaching they  
8 evidently had excused a member of one of their classes to go  
9 up, move on out to Colorado, and one of the other members  
10 evidently signed the man in, thinking he was there and forgot  
11 his signature. So this was concocted to mean that this was a  
12 criminal offense, a forgery, when it was more of a  
13 bookkeeping issue. And I think the Attorney General came in,  
14 interviewed all the members of our staff in the DUI at that  
15 point and then concluded there was not enough evidence to  
16 prosecute these men. And --

17 MR. MacMAIN: Just answer what she's asking you.

18 BY MS. WALLET:

19 Q. And did they leave shortly thereafter?

20 A. One left early, and then -- one left because he  
21 went on to a treatment center, and another one left maybe a  
22 year later.

23 Q. Which one left first?

24 A. I think Meuron left first. He was hired by Matt  
25 Talbott House.

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S. Gareth Graham

224

1 Q. And then Dunsmore left later?

2 A. Right.

3 Q. What was your professional relationship to these  
4 two men?

5 A. Just as co-workers.

6 Q. Why do you believe that Ms. Houser made these  
7 allegations?

8 MR. MacMAIN: Objection. If you have any  
9 personal knowledge or belief, you can answer that. I don't  
10 want you to guess.

11 THE WITNESS: I don't know.

12 BY MS. WALLET:

13 Q. Did you believe those allegations to be  
14 untruthful?

15 A. What allegations?

16 Q. The allegations against Meuron and Dunsmore.

17 A. Made by whom?

18 Q. Made by Ms. Houser.

19 A. I don't know what Ms. Houser exactly said other  
20 than she wanted the matter investigated.

21 Q. If you remember, sir, I asked you why did you  
22 believe that Kerry Houser was untruthful, and I understood  
23 your response to be she was involved in this mess with  
24 Dunsmore and Meuron, that was one of your reasons why you  
25 thought she was untruthful. Did I misunderstand?



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S. Gareth Graham

225

1 A. No, not at all.

2 Q. And what was it that you believed she had done  
3 that was untruthful with regard to this incident?

4 A. I don't think it was in her place to be assessing  
5 blame to individuals that were innocent of a charge, or  
6 innocent, and I think she along with other members of the  
7 office assessed blame to these men before anything was ever  
8 proven.

9 Q. Was it not in her place to bring some evidence of  
10 impropriety to the judge?

11 A. You would have to ask her that.

12 Q. Well, you said you didn't think it was in her  
13 place. Why not?

14 A. I didn't think it was in her place to pass a  
15 rumor without any evidence to substantiate the rumor. And  
16 that went as well to anybody else that passed the rumor about  
17 that.

18 Q. Was she allied with other people making this  
19 allegation?

20 A. She might have been. Not that -- I don't know if  
21 she was aligned with them. She was just one of the ones  
22 along with the others that had contributed to this commotion.

23 Q. And who else contributed to the commotion?

24 A. Probably Hank Thielemann and Tom Boyer.

25 Q. Anyone else?

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S. Gareth Graham

226

1           A.       You would have to ask Mr. Bolze. He handled that  
2       investigation initially.

3           Q.       I'm asking, sir, who else you know was involved  
4       in this incident?

5                   MR. MacMAIN: If you know of anyone else that you  
6       believe.

7                   THE WITNESS: No. No.

8       BY MS. WALLET:

9           Q.       So Kerry Houser, Hank Thielemann and Tom Boyer  
10       were the only ones you knew --

11          A.       And Ken Bolze.

12          Q.       Who you knew were involved in this?

13          A.       Who I knew, right.

14          Q.       Okay. Now, what other incidents are you aware of  
15       that has caused you to conclude that Ms. Houser is  
16       untruthful?

17          A.       Well, it might not be a total matter of  
18       untruthfulness, but I had had some problems with Mr. Meuron  
19       when he ran the DUI school, and one particular problem was he  
20       had --

21                   MR. MacMAIN: Gary, listen. She asked you if you  
22       can point to any examples, and if you can't, if it's just  
23       your sense that you don't think that Kerry Houser is  
24       completely truthful, okay? So let's just stick with Kerry  
25       Houser, and if you can, give examples. If it's just your

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S. Gareth Graham

227

1 sense that you don't believe she's credible or truthful, then  
2 that's fine as well. That's all she wants to know.

3 THE WITNESS: And that's what I'm getting to. I  
4 just take a lot longer to get it out.

5 What happened was Meuron had purchased some books  
6 like Don't Help and Under the Influence, and they were a type  
7 of paperback books that were attributed to the DUI situation.  
8 And they were like what we consider the Bibles on looking at  
9 alcohol and alcoholism. So he had purchased these books, and  
10 he purchased maybe 11 of them. And Mr. Bolze asked me -- you  
11 know, I said, I didn't get a book.

12 And on those books -- I went around to different  
13 people that Mr. Meuron had distributed the books to and  
14 said -- I was frustrated because he didn't give me the  
15 manual, or he didn't give me the book to read, and I was  
16 complaining about Mr. Meuron. And one of the persons I  
17 complained to was Kerry Houser. And I -- and she said, well,  
18 in her quote and in her language, she said, don't you  
19 understand, Gary, Mr. Bolze lives vicariously through Paul  
20 Meuron's penis. That was her quote to me. So that's the  
21 nature of Ms. Houser's comments. And that was one of the  
22 reasons I never liked Ms. Houser or professionally got along  
23 with her.

24 Q. So you didn't like her language?

25 A. I didn't like her language. And in that

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S. Gareth Graham

228

1 particular situation that's how she viewed how the  
2 relationship between Mr. Bolze and Mr. Meuron, that Ken lives  
3 vicariously through Paul's penis, attributing that to Paul  
4 Meuron, who was a single man that had different escapades and  
5 evidently he shared those with Mr. Bolze. So in Kerry's  
6 glossary review of those two people was summarized in that  
7 comment.

8 Q. And why did that incident lead you to conclude  
9 that Kerry Houser was untruthful?

10 A. That incident made me not trust Kerry Houser  
11 because I thought it was very inflammatory. I thought it was  
12 very gender specific, I thought it was, you know, it's very  
13 frightful.

14 Q. What was frightful about it?

15 MR. MacMAIN: He just answered that. He  
16 explained to you.

17 BY MS. WALLET:

18 Q. Do you have any other incidents that led you to  
19 conclude that Kerry Houser was an untruthful person?

20 A. Not during the Juvenile Probation office. From,  
21 I've had different people and there's different people  
22 written letters to the Adult staff and the supervisors  
23 attributing her to not being truthful. But that can happen  
24 to any probation officer, so I'm not just saying that happens  
25 to her specifically. Clients that you deal with always

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S. Gareth Graham

229

1 complain about you.

2 Q. Do you know any other incidents, you personally,  
3 know of any other incidents that caused you to conclude that  
4 Houser was untruthful?

5 A. Well, there was an incident where Barbara Varner  
6 shared with me is that Kerry was -- Barb Varner shared with  
7 me that Kerry was I guess cited by the Carlisle Police  
8 Department for a criminal trespass charge for going into her  
9 husband's lawyer's office when she was going through a  
10 divorce. And supposedly, according to Ms. Varner who was  
11 repeating this to me, there was a notice going to be sent to  
12 our office. And I did see a certified mail laying on Ken  
13 Bolze's desk regarding that she had had a notice of trespass  
14 because she was going to Chuck Vohs's professional office,  
15 who she was married to and had a baby to, and going there and  
16 in short words, raising hell during the middle of the day to  
17 the point where the lawyers, Mr. Vohs and his partner, had  
18 her cited with criminal trespass and was served a criminal  
19 trespass notice. So that's the other only other incident  
20 that I know of that came through Mrs. Varner because  
21 Mrs. Varner told me that.

22 Q. And what about that incident involved  
23 untruthfulness?

24 A. It's not an issue of untruthfulness, it's an  
25 issue of whether I trusted her. And I didn't trust her

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S. Gareth Graham

230

1 because of the vicious things that she had done and said.

2 Q. Did she say anything vicious about you?

3 A. You would have to ask the other people.

4 Q. I'm asking you, sir. Do you know of anything  
5 that she said that was vicious toward you?

6 MR. MacMAIN: If you know.

7 THE WITNESS: I don't know. I don't remember.

8 BY MS. WALLET:

9 Q. Did she say anything vicious toward anyone else  
10 in the Probation office?

11 MR. MacMAIN: Again, Gary, that you know of.

12 THE WITNESS: No, that I know of.

13 BY MS. WALLET:

14 Q. Now, you mentioned that you thought other people  
15 believed her to be untruthful. Correct?

16 A. No, I don't remember saying that.

17 Q. Well, you said other people wrote letters about  
18 her untruthfulness. Did I mishear that?

19 A. Yeah.

20 Q. Okay. Well, were there others who thought she  
21 was, she, Kerry Houser, was untruthful?

22 A. I don't know.

23 Q. Well, did other people tell you: I don't trust  
24 her, she doesn't tell the truth?

25 MR. MacMAIN: Other people besides these letters

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S. Gareth Graham

231

1 he spoke about?

2 MS. WALLET: Yes.

3 THE WITNESS: No. I don't know of any other  
4 incidents that I can recall. I just don't remember. The two  
5 incidents that I cited were the glaring examples of what I  
6 remember. I mean, there could have been other incidents.

7 BY MS. WALLET:

8 Q. Were there people in the Juvenile Probation  
9 office who didn't like Kerry Houser?

10 A. There again, I don't have any specific knowledge  
11 of who liked her and who didn't like her.

12 Q. Did you like her?

13 A. Not particularly, ma'am.

14 Q. Why not?

15 MR. MacMAIN: It's been asked and answered. He's  
16 already given you reasons and said why. You want him to  
17 answer again?

18 MS. WALLET: Well, I asked him about  
19 untruthfulness. That's different from whether you like  
20 somebody.

21 MR. MacMAIN: You also asked about like and he  
22 gave you examples. He said she was vicious and he gave some  
23 examples of those things.

24 BY MS. WALLET:

25 Q. Any other reasons why you didn't like her?

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S. Gareth Graham

232

1           A.       I remember before she was even hired we had a  
2 Christmas party one time, and at the counter, she stood at  
3 the counter and told Judge Sheely dirty jokes. And Denny  
4 Drachbar, you know, brought that to me, too.

5           Q.       When you say brought that to you --

6           A.       Well, he heard her out there talking and telling  
7 the jokes.

8           Q.       Did you hear her tell the jokes?

9           A.       I heard her telling the jokes, sure.

10          Q.       And then you and Drachbar talked about it later?

11          A.       Yeah, probably, um-hum.

12          Q.       And what was Drachbar's reaction?

13          A.       I don't know. I think he said something about  
14 maybe Judge Sheely will end up hiring her because he, you  
15 know, she's out there personalizing things to him.

16          Q.       Why would Drachbar be of that opinion?

17          A.       Well, I think she had applied at our office.

18          Q.       Drachbar thought that Judge Sheely would be  
19 impressed by the fact that she was telling dirty jokes?

20          A.       You'll have to ask him. I don't -- that's...

21          Q.       Do your daughters know of your affair?

22          A.       Yes, they do.

23          Q.       Are either of your daughters married?

24          A.       No, ma'am.

25          Q.       Are they sexually active?



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S. Gareth Graham

233

1 A. Not that I'm aware of.

2 Q. Do you believe you would be aware of it?

3 A. I think so, um-hum.

4 Q. How would you describe your relationship to your  
5 daughters?

6 A. Excellent.

7 Q. How did you tell your daughters about this  
8 affair?

9 A. Just by confessing.

10 Q. Well, did you tell them one at a time or both  
11 together?

12 A. I told them individually.

13 Q. Which one did you tell first?

14 A. I think Andrea, the oldest one, and then Julie.

15 Q. All right. When did you do this in relation to  
16 telling your wife? Was it shortly thereafter, a couple weeks  
17 after, months after?

18 A. No. It was quite a significant amount of time  
19 after. Maybe two years after. Maybe longer.

20 Q. And what prompted you to tell your daughters  
21 about this?

22 A. I think they had seen that my wife and my, our  
23 relationship had deteriorated after these allegations in this  
24 lawsuit, and I just felt somewhere along the line they needed  
25 to know. I wanted to protect them, because they were pretty

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S. Gareth Graham

234

1 young teenagers, you know, at the time. So I -- that's what  
2 prompted me, just a cleansing.

3 Q. And what did you tell Andrea about this affair?

4 A. I just said that I had been involved in an  
5 extramarital affair and that I was sorry.

6 Q. Did you tell her with whom?

7 A. I think Barb Varner -- I don't think she knew who  
8 that was.

9 Q. Did you mention Barb Varner by name?

10 A. I think so. Or a lady at work. And I think she  
11 knows it was Barb Varner.

12 Q. Did your daughters ever meet Ms. Varner?

13 A. On one occasion my oldest daughter met her. She  
14 come into the courthouse and we met, Barb and I had met in  
15 the coffee room. And Andrea was a swimmer at the time and  
16 Barb had, Barb Varner had talked about her being a water  
17 safety instructor. And actually, Barb Varner I think gave my  
18 daughter some, I don't know, I think it was comic books at  
19 the time or something, that pertained to swimming. My  
20 daughter's been a swimmer and was a water safety instructor  
21 and was a lifeguard.

22 Q. And did you tell Andrea that this was the woman  
23 that she had met and gave her the comic books?

24 A. I don't think she remembers, though.

25 Q. Did you tell Andrea that it went on for a number

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S. Gareth Graham

235

1 of years?

2 A. Yes, ma'am.

3 Q. What was her reaction?

4 A. She's disappointed.

5 Q. What did she say that caused you to believe she  
6 was disappointed?

7 A. She said, how could you do that to us.

8 Q. And what did you respond?

9 A. I responded that it was a very selfish thing to  
10 do.

11 Q. And now, you spoke to your daughter Julie on a  
12 separate occasion, correct?

13 A. Yeah.

14 Q. Shortly after Andrea?

15 A. No. I don't know the time frame, no. It  
16 wouldn't have been shortly -- I think Andrea knew it for a  
17 longer period. And I think her mother had told them both,  
18 that it was -- and I had told them my part of it.

19 Q. Did their mother tell them before you told them?

20 A. She might have, yes.

21 Q. Why do you believe that?

22 A. Well, I think -- I had asked my wife to try to  
23 conceal this from the kids and not interrupt them, and she  
24 said, well, it's going to have to come out sometime. So I  
25 think she mentioned it to them at one juncture. And then

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S. Gareth Graham

236

1    them individually, you know, came to me and asked probing  
2    questions to the point where I talked to them about it.

3                   I think Julie, I remember I was coming back from  
4    the York fair and said something in the car and --

5           Q.       Just you and she?

6           A.       Yeah.

7           Q.       And you brought up the subject?

8           A.       She brought up the subject.

9           Q.       What did she say to you?

10          A.       Did you have a affair with this woman, why would  
11   you do that.

12          Q.       And then you were --

13          A.       Can I get a drink?

14                   MS. WALLET:   Sure.

15                   MR. DELLASEGA:  I wouldn't mind five minutes.

16                   (Recess taken from 10:26 until 10:35 a.m.)

17   BY MS. WALLET:

18          Q.       When we took the break I believe you were telling  
19   me she brought up the subject when you and she were coming  
20   home from York?

21          A.       Yes, coming home from the York fair.

22          Q.       What did she say to you?

23          A.       Just said, Dad, you know, how could you have done  
24   that to Mom and us.

25          Q.       And how did you respond to Julie?

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S. Gareth Graham

237

1           A.       I told her the same thing, it was a very selfish  
2    thing to do, and her mother and I's relationship had  
3    deteriorated over the years, and I stepped outside the  
4    marriage.

5           Q.       Now, you married your wife on what day?

6           A.       August 14th of '82.

7           Q.       And did you marry in a traditional religious  
8    service?

9           A.       Yes, ma'am.

10          Q.       And did you take what I would consider to be  
11    traditional religious vows?

12          A.       Yes.

13          Q.       Did you believe that this relationship with  
14    Ms. Varner was a breaking of those vows?

15          A.       Yes, it was.

16          Q.       I believe I asked you this question, but indulge  
17    me, it's been a while since I talked to you. Did you break  
18    your vows with regard to any other individual during the  
19    course of your marriage?

20          A.       No, ma'am.

21          Q.       Now, you said that your marriage had deteriorated  
22    and you thought that your daughters were aware of that.  
23    Correct?

24          A.       Maybe deteriorated wasn't a good word. It was --  
25    maybe I could use the word just a matter of consumption. We

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S. Gareth Graham

238

1     were just at -- we were just consumed with everything in the  
2     marriage, trying to earn a living, trying to both occupy two  
3     separate jobs, trying to raise two children.

4           Q.     From 1982 until when you initiated this affair  
5     with Ms. Varner, would you consider your marriage to have  
6     been a happy one?

7           A.     Yes, ma'am.

8           Q.     Did you complain to anyone in the Probation  
9     office about the condition of your marriage?

10          A.     In what time frame?

11          Q.     Between 1982 and approximately 1990 when I  
12     believe you've said you began this relationship.

13          A.     No. No.

14          Q.     Did you ever talk about your wife's sexual  
15     preferences in the office during that time period?

16          A.     No, ma'am.

17          Q.     Did you ever talk about you and your wife's  
18     sexual relationship with others in the office?

19          A.     In what regard?

20          Q.     Her sexual appetites, your sexual appetites?

21          A.     No, to those questions.

22          Q.     How about preferences?

23          A.     No.

24          Q.     Did you complain about her love making, in the  
25     office?

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S. Gareth Graham

239

1           A.       I would probably say that we weren't active  
2 enough, however.

3           Q.       You wanted sex more often than she did?

4           A.       Yes, ma'am.

5           Q.       And you would have said that in the office?

6           A.       I might have, sure.

7           Q.       Was there some one individual in the office with  
8 whom you were particularly close and you confided these  
9 things?

10          A.       Not really. Just shared on a general basis, just  
11 shared conversation between guys, mostly. Not girls or gals  
12 that were in the -- or the women that were in the office.

13          Q.       Did you have one person that you considered to be  
14 your best friend in the office?

15          A.       I didn't have a real best friend. I could have a  
16 best co-worker, I would say. Denny Drachbar and I did a lot  
17 of things together, as well as Joe and I did a number of  
18 things together. And Tom Boyer and I used to have a good  
19 relationship. So there was some that I had better  
20 relationships than others.

21          Q.       Okay. Now, I'm talking about the period between  
22 1982 and 1990. Did you go out drinking with individuals in  
23 the office?

24          A.       I can't recall. I could have.

25          Q.       Did you go out drinking with Mr. Osenkarski?

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S. Gareth Graham

240

1 A. No. Not specifically, no.

2 Q. Well, did you go out in groups where

3 Mr. Osenkowski was there and you were there?

4 A. Probably. I think when Kerry first joined the  
5 staff she lived above the hardware store across from the  
6 courthouse and she hosted a couple parties over there. And I  
7 think when Deb Graeff retired, I think Kerry hosted a party  
8 there. But specifically to go out with somebody to drink,  
9 I'm not really a -- I wouldn't consider myself a drinker.

10 Q. Do you keep alcohol in your home?

11 A. No, ma'am.

12 Q. Why is that?

13 A. I don't use it. My wife doesn't use it.

14 Q. Is your wife opposed to it?

15 A. We just don't use it. She's not opposed to it.

16 Q. Does she drink socially?

17 A. No.

18 Q. Would you say you are a social drinker?

19 A. No. I wouldn't describe myself as a social  
20 director, either.

21 Q. But you're not opposed to the intake of alcohol?

22 A. No.

23 Q. Now, these gatherings that involved probation  
24 officers, did you take your wife to those gatherings?

25 A. I don't really recall, no, taking my wife to



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S. Gareth Graham

241

1 Kerry's place.

2 Q. Do you believe that your wife was present with  
3 you when you were socializing with any of the groups of  
4 probation officers?

5 A. I think she was on occasion, sure.

6 Q. Did you ever lie to your wife about where you  
7 were going when you were going to go out with other probation  
8 officers?

9 A. No.

10 Q. Did you ever tell other probation officers that  
11 you had lied to your wife about where you were?

12 A. You'll have to give me specifics. I don't know,  
13 that's a generalized -- I don't even know what you're getting  
14 at.

15 Q. You don't remember?

16 MR. MacMAIN: Objection. He said he didn't  
17 understand your question.

18 THE WITNESS: I don't understand.

19 MR. MacMAIN: He can't answer your question, he  
20 doesn't understand it.

21 BY MS. WALLET:

22 Q. Did you ever tell any other probation officer  
23 that you had lied to your wife about where you were?

24 A. Not that I recall.

25 Q. Did you ever observe Mr. Osenkarski in an

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S. Gareth Graham

242

1 intoxicated state?

2 A. Does intoxicated state imply that he was out of  
3 control or in control?

4 Q. Either one.

5 A. Probably -- I've seen Joe many times when he's  
6 been drinking and maybe somebody would call him intoxicated.  
7 Was he out of control? No.

8 Q. Were there any times when the individuals present  
9 would not permit him to drive?

10 A. I don't -- no, I don't have any idea what you're  
11 talking about there.

12 Q. Were there times when you observed Mr. Osenkowski  
13 in a state in which you would not want him to be behind the  
14 wheel?

15 A. No.

16 Q. Did you ever take him home because you thought he  
17 was intoxicated?

18 A. No.

19 Q. Are you aware of other times when individuals  
20 took him home because they thought he was intoxicated?

21 MR. MacMAIN: Objection to form of the question.

22 THE WITNESS: I don't know what other people did  
23 with Mr. Osenkowski.

24 BY MS. WALLET:

25 Q. Did you ever observe Mr. Osenkowski to drink

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S. Gareth Graham

243

1 alcoholic beverages during the workday?

2 A. I never observed him drinking during the workday.

3 Q. Including lunch time?

4 A. Including lunch time.

5 Q. Are you currently engaged in a dispute with your  
6 sister regarding your parents' estate?

7 MR. MacMAIN: Objection. What --

8 THE WITNESS: No. I can just answer that.

9 BY MS. WALLET:

10 Q. Is there a dispute regarding the distribution of  
11 your parents' estate?

12 A. Not at all, ma'am. In fact, that was finalized  
13 and you can look it up in the courthouse.

14 Q. And when was that finalized?

15 A. Well, after my mom's death in 1998. Steve Tiley  
16 was her attorney and he was -- and you can check with that.

17 Q. Did you make any claims against the estate for  
18 expenses that you believed were incurred during your mother's  
19 lifetime?

20 MR. MacMAIN: Let me just object. Hold on. I  
21 don't see how there's any conceivable relevance to any  
22 disputes in his mother's estate or could lead to relevant  
23 evidence. If you want to make an offer of proof as to how in  
24 the world this could have any conceivable relevance to the  
25 issues in the case, I'm happy to reconsider.

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S. Gareth Graham

244

1 MS. WALLET: Well, as I understand it, the expert  
2 that's been retained by the county defendant is going to  
3 review the deposition transcript as part of his expert  
4 report. The relationship of Mr. Graham to other women is  
5 certainly very relevant to the issue of whether or not he has  
6 the predisposition to be a sexually harassing individual, and  
7 his relationship to other women includes his family.

8 MR. MacMAIN: I don't see how a dispute over an  
9 estate, which he's already said there wasn't, could have any  
10 relevance to that issue.

11 But I mean, I would just also note that we went  
12 five-and-a-half hours the other day and we're getting -- I'm  
13 going to allow you some liberty, as you did with us with more  
14 than the seven hours, but not a whole lot beyond that. And  
15 I'd like to get to the issues that are directly related to  
16 the issues in this case that you may want to explore rather  
17 than I think on awful tangential issues, if even tangential  
18 at all.

19 MS. WALLET: I understand.

20 BY MS. WALLET:

21 Q. Did you understand my question?

22 A. You'll have to repeat it, I'm sorry.

23 Q. Did you make any claims against the estate  
24 regarding expenses that you incurred during your mother's  
25 lifetime?

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S. Gareth Graham

245

1 A. No, ma'am.

2 Q. Did you assert a claim for a less-than-even  
3 distribution of your mother's estate?

4 A. No, ma'am.

5 Q. So there were no disputes whatever regarding the  
6 settlement of your mother's estate?

7 A. None whatsoever.

8 Q. At least no disputes with your sister?

9 A. It's the only other remaining person.

10 Q. Now, you said that your relationship with your  
11 wife had deteriorated. Is that one of the reasons why you  
12 sought out a extramarital affair?

13 A. That could have been one the factors. I did  
14 clarify that deteriorated isn't the best word.

15 Q. Well, how would you --

16 A. Strained. I would say it was strained.

17 Q. Did you ever use the term: I will punish my  
18 wife?

19 A. No, ma'am.

20 Q. Did you ever use words to that effect?

21 A. No.

22 Q. Did you ever use that term in relationship to  
23 women who worked with you in the Probation office?

24 A. No, ma'am.

25 Q. Since the revelation of this affair, would you

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S. Gareth Graham

246

1 describe your marriage as a happy one?

2 A. Since this revelation, what do you mean by  
3 revelation? Coming to light?

4 Q. Since you told your wife about the affair how  
5 would you describe your marriage?

6 A. Good.

7 Q. Immediately good, or take a while?

8 A. My wife's a very forgiving individual, but it  
9 took quite some time.

10 Q. Did she ever make any statements to you about  
11 Barbara Varner?

12 A. In what context?

13 Q. Well, did she ever say: I dislike Barbara  
14 Varner?

15 A. Sure.

16 Q. What did she say?

17 A. Well, she was resentful towards her as well as  
18 me.

19 Q. What did she say about Barbara Varner?

20 A. I think she said how selfish Ms. Varner was. I  
21 think she made a comment about, you know, her children were  
22 raised and her children were out of her home, and our  
23 children were still within our home, and my wife saw that as  
24 a very selfish issue with Ms. Varner.

25 Q. Did your wife call Barbara Varner a bitch?

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S. Gareth Graham

247

1 A. No, ma'am.

2 Q. Did she use any other terms?

3 A. Other than liar, I don't think anything else.

4 Q. Did your wife express to you a hatred toward  
5 Barbara Varner?

6 A. No, I don't think my wife would hate her. I  
7 think my wife was disappointed in myself and her. I wouldn't  
8 say she hated her, no. She never displayed any hatred toward  
9 Barb Varner.

10 Q. Now, you're aware, are you not, that Ms. Varner  
11 made some complaints about your wife's conduct, correct?

12 A. Yes, I am, ma'am.

13 Q. And were you present on any of the occasions when  
14 Ms. Varner and your wife were in the same vicinity?

15 A. The only occasion I recall is the one day in  
16 March, I think right before I was terminated, this happened  
17 on a -- we had, my wife and I had gone home to eat. And we  
18 met Ms. Varner at a blind corner walking out of the  
19 courthouse, and Ms. Varner walked directly into the path of  
20 my wife and they bumped shoulders.

21 Q. What was said at the time?

22 A. I think just excuse me.

23 Q. Who said that?

24 A. I think both of them said it to each other. This  
25 is a -- I don't know how to explain it but it's a completely

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S. Gareth Graham

248

1 blind corner, and Ms. Varner was coming out of the parking  
2 lot and we were coming down the street on a narrow sidewalk,  
3 and we were walking right beside this building. And it was  
4 like, I guess, I think it was, I guess I interpreted it as  
5 a -- I saw her coming just at the last minute and stopped,  
6 and my wife never saw her coming and they neither one would  
7 fail to yield the right of way to each other. So they  
8 brushed shoulders.

9 Q. And the only thing that was said was excuse me?

10 A. Yeah.

11 Q. Your wife didn't say anything else to Ms. Varner?

12 A. No.

13 Q. Ms. Varner didn't say anything else to your wife?

14 A. No. Or I don't recall. I don't recall any other  
15 conversation.

16 Q. Now, your wife and Ms. Varner parked in the same  
17 parking lot, correct?

18 A. Yes, ma'am.

19 Q. And were you aware that Ms. Varner moved her  
20 parking space from closer to your wife's space to farther  
21 away?

22 A. No.

23 Q. You never knew that?

24 A. I knew it after -- I knew after this came out,  
25 you know. But my wife never told me about it, no.



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S. Gareth Graham

249

- 1 Q. Were you present at the district justice hearing?
- 2 A. No, ma'am.
- 3 Q. What did your wife tell you about that district  
4 justice hearing?
- 5 A. She didn't tell me anything other than she was  
6 vindicated from the charges that Ms. Varner brought.
- 7 Q. Is your wife a quiet or a loud person?
- 8 A. Quiet.
- 9 Q. Does she talk a lot about personal things?
- 10 A. Give me an example.
- 11 Q. Well, does she speak with girlfriends about her  
12 personal relationship with you?
- 13 A. No. My wife's a very private person.
- 14 Q. Does she have a best friend?
- 15 A. Probably.
- 16 Q. You don't know?
- 17 A. I don't know what you mean by best friend.
- 18 Q. Does she have a person in whom she confides her  
19 private things?
- 20 A. Probably not.
- 21 Q. Does she confide in you?
- 22 A. Yes.
- 23 Q. Was there a time when that was not so?
- 24 A. Not that I can recall.
- 25 Q. Is it accurate to say that your wife was angry

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S. Gareth Graham

250

1 with you that you had an extramarital affair?  
2 A. Probably disappointed.  
3 Q. Not angry?  
4 A. What do you mean by angry, then?  
5 Q. Did she shout at you?  
6 A. No.  
7 Q. Did she give you the cold shoulder for a while?  
8 A. Yes.  
9 Q. Did she deny you sexual relations for a while?  
10 A. No.  
11 Q. Did you go to marital counseling?  
12 A. Yes.  
13 Q. When?  
14 A. I don't recall.  
15 Q. Well, shortly after you told her of the affair,  
16 or before?  
17 A. After.  
18 Q. Shortly after, or several years after?  
19 A. Probably within -- it was June. Probably within  
20 a couple, maybe five months, six months.  
21 Q. And how long did you go to counseling?  
22 A. Maybe one or two years.  
23 Q. How often?  
24 A. Infrequently. We used the EAP services of the  
25 county, or what's the acronym, I'm not sure.

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251

1 Q. The EAP program?

2 A. The Employee Assistance Program, EAP, yeah.

3 Q. Did you go to the same counselor, that is, you  
4 and she went to the same counselor?

5 A. Initially, no. And then I ended up going to the  
6 counselor she used. There was -- or the counselor she was  
7 seeing.

8 Q. So initially she went to one person. Did you go  
9 to someone else?

10 A. Yes.

11 Q. And then you stopped going to your person and you  
12 went to hers?

13 A. Correct.

14 Q. Was that a recommendation, that you use the same  
15 counselor?

16 A. No. It just seemed to be more productive.

17 Q. Are you in counseling now?

18 A. No.

19 Q. Other than marital counseling, have you engaged  
20 in any personal counseling?

21 A. No, ma'am.

22 Q. So other than the individuals that you saw during  
23 this one- to two-year period, you've not seen anyone else for  
24 counseling of yourself?

25 A. That's correct.

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S. Gareth Graham

252

1 Q. Mr. Osenkarski testified that he told you that he  
2 had been told by the judge's secretary that you might be  
3 fired. Do you remember that testimony?

4 A. I don't recall that testimony, no.

5 Q. Did Mr. Osenkarski tell you that the judge's  
6 secretary had told him that the both of you may be fired?

7 A. No. I don't think Joe said anything to me about  
8 that. I think -- I wouldn't say a definitive no, but I think  
9 the entire office knew what Ms. Varner's pursuits were.

10 Q. And how did they know that?

11 A. I have no idea. I think she -- well, for six  
12 months she ran around and had secret clandestine meetings  
13 with a select group of disgruntled employees. I mean, every  
14 morning she would meet with Barry Hair, prior to at 7:30 in  
15 the morning she would meet with Mark Galbraith, she would  
16 meet with Nicole Galbraith, Kerry Houser. It was a regular  
17 routine for her to go around and tell these different people,  
18 you know, what she was involved with against Joe and I. And  
19 so I mean, that's just the nature of how it happened.

20 My mother was dying from September of '97 till  
21 January of '98. When she was dying, she was diagnosed as a  
22 terminal patient with aortic aneurysms and I was consumed  
23 with taking care of my mother. And this woman, Barbara  
24 Varner, just went around every morning with a heyday trying  
25 to tell exactly any story she could tell about Joe and I and

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S. Gareth Graham

253

1     trying to get us fired and trying to get us demoted.

2           Q.     You weren't very happy about that, were you?

3           A.     I didn't know anything about it because -- I  
4     didn't have a happy or sad face about it.

5           Q.     You didn't know anything about it because you  
6     weren't in the Juvenile Probation office at the time?

7           A.     Oh, yeah, I was in Juvenile Probation at the  
8     time.

9           Q.     Well, did you observe this conduct or didn't you?

10          A.     I watched her do this, right.

11          Q.     So when you say I didn't know anything about  
12     it --

13          A.     I don't know what the --

14          Q.     You watched it happen?

15          A.     I watched her go have these office meetings with  
16     these individuals, sure.

17          Q.     And what did you say about that?

18          A.     I didn't say a thing about it.

19          Q.     You didn't go to Joe Osenkowski and say: What's  
20     she wasting time doing this for?

21          A.     I probably did say that.

22          Q.     What else did you tell him?

23          A.     Tell who?

24          Q.     Mr. Osenkowski.

25          A.     Nothing.

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254

1 Q. Well, did you complain at any time about Barbara  
2 Varner and the way in which she acted toward you?

3 A. I don't recall any specific complaints.

4 Q. Did you ever make any written complaints about  
5 Barbara Varner?

6 A. No, ma'am.

7 Q. Did you make any oral complaints that you  
8 remember right now to Mr. Osenkowski about Barbara Varner?

9 A. No.

10 Q. What did you think of Ms. Varner's professional  
11 capability?

12 A. She was adequate. Adequate.

13 Q. Limit it to the period of time that you  
14 supervised her.

15 A. Okay. Adequate.

16 Q. How would you rank her among the probation  
17 officers that you supervised?

18 A. In what regard of ranking?

19 Q. Let's talk about total conduct in the workplace.

20 A. She was appropriate as far as her conduct in the  
21 workplace.

22 Q. What about quantity of work?

23 A. Probably marginal --

24 Q. How about quality?

25 A. -- to average. Marginal to average. She didn't

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S. Gareth Graham

255

1 excel, so.

2 What was your other question, I'm sorry?

3 Q. Quality of work.

4 A. Satisfactory. Sometimes commendable.

5 Q. Relationship with others?

6 A. Good. Commendable.

7 Q. Knowledge of her professional work?

8 A. She was inexperienced when I -- she was

9 inexperienced, so her knowledge was lacking as to how to

10 prepare reports.

11 Q. Did you make any complaints about Ms. Varner's  
12 work performance to anyone during the period of time that you  
13 supervised her?

14 MR. MacMAIN: Including Ms. Varner? Or are you  
15 talking about --

16 MS. WALLET: Correct.

17 MR. MacMAIN: Or are you talking about people  
18 above them?

19 THE WITNESS: I complained to her.

20 BY MS. WALLET:

21 Q. What complaints did you make to her?

22 A. Just different things that she was omitting on  
23 her reports.

24 Q. Specifically what was she omitting?

25 A. Petition numbers. She was dropping charges. She

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S. Gareth Graham

256

1 didn't carry the charge from the police report onto the  
2 juvenile petitions. She didn't identify victims and where  
3 the restitution went. She didn't differentiate between adult  
4 co-defendants and juvenile accomplices, because we would get  
5 juveniles charged with certain crimes and we would be  
6 processing them much sooner than the adult counterpart, and  
7 she would never differentiate between who was involved and  
8 what their status was. She -- there was a multitude of  
9 different memorandums I gave to her.

10 Q. And after you brought these to her attention, did  
11 she change the way in which she did reports?

12 A. Sometimes she resented my corrections. And as  
13 Joe testified to yesterday, we were consumed with other  
14 things, I mean, other areas of trying -- pursuits when we  
15 split these staffs. So I finally got so frustrated after  
16 giving her the memos two and three different times, I'd say,  
17 please get your work reviewed by one of the senior POs before  
18 you give it to me.

19 Q. And who did you expect would review her work  
20 before it came to you?

21 A. Either Sam Miller or Denny Drachbar or Darby  
22 Christlieb, any of the senior POs that could help her with  
23 correcting the deficiencies in her work.

24 Q. Did you complain to Sam Miller about Ms. Varner's  
25 work?



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S. Gareth Graham

257

1           A.       He complained to me about her work. And he  
2       complained to me about always helping her, and he thought it  
3       was unfair that I was always assisting her and in writing her  
4       petitions, assisting her in writing her reports. He and  
5       Drachbar. They were very experienced men, been on staff for  
6       a long time, handled, you know, a lot of intensive work. And  
7       he thought -- they were giving me a hard time all the time  
8       for helping her with her work.

9                   Fran Rose would give me a hard time how -- she  
10      was a secretary, kept coming to me where Ms. Varner would be  
11      omitting things that the judge wanted on the reports.

12       Q.       Okay. Now, you said that Miller and Drachbar  
13      complained to you?

14       A.       For helping her.

15       Q.       Because they had to help Ms. Varner? Didn't I  
16      understand that correctly?

17       A.       No. They complained to me for overly helping  
18      Ms. Varner all the time, in saying, you know, you don't offer  
19      that service to anyone else in here, how come she's the only  
20      one that gets, you know, all the time, and why are you always  
21      doing her petitions, she's never going to learn how to do  
22      them while you keep doing them for her.

23       Q.       I understood you to say that you got tired of it  
24      after a while and you told her to take her work to one of the  
25      other senior POs?

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258

1           A.       On a couple occasions I gave her the same  
2       correction memorandum two and three different times.

3           Q.       Okay. And one of those individuals would be  
4       Mr. Miller. Is it your testimony that Mr. Miller complained  
5       to you because he didn't want to review Ms. Varner's work?

6           A.       No. No. He was obligated, you know, to review  
7       her work since I had asked him to help her with her  
8       deficiencies in her reports.

9           Q.       Now, did Mr. Drachbar complain to you about  
10      having to review Ms. Varner's work?

11          A.       No.

12          Q.       But Fran Rose, the secretary, did?

13          A.       Fran Rose came to me repeatedly in things that  
14      she would miss on her reports. And Judge Sheely would call  
15      down and say, you know, I've been through this before,  
16      there's no petition numbers on this juvenile petition.

17          Q.       Was Ms. Varner the only individual about whom  
18      there were these complaints?

19          A.       No, ma'am.

20          Q.       Was it a common complaint?

21          A.       Well, there was a -- in that one time period  
22      there was probably a couple memos a month, you know, or a  
23      couple, you know, just one right after the other probably  
24      leading into this April 29th meeting down when she made her  
25      complaints with the county. I had probably gave her a memo

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S. Gareth Graham

259

1 every month that preceded that from November or December.

2 I'm not sure. You're asking me to go back six, seven years  
3 on memos on specific cases that I haven't had any access to.

4 Q. Do you have any of those memos in your personal  
5 possession?

6 A. Sure.

7 MS. WALLET: Are you going to supplement your  
8 interrogatories?

9 MR. MacMAIN: Yes. I can give them to you. I  
10 figured these questions would be asked so I made --

11 MS. WALLET: Do I take this to be the complete  
12 supplementation of the production request?

13 MR. MacMAIN: Not complete. This is one packet  
14 of information in regard to your question. You want to mark  
15 this or do you want to ask about it?

16 MS. WALLET: No. We'll have to take that up at  
17 another time, I'm afraid.

18 BY MS. WALLET:

19 Q. You said earlier, prior to your being terminated.  
20 Was that just a slip of the tongue? Mr. Graham?

21 A. A slip of the tongue? I was terminated from the  
22 Juvenile Probation office.

23 Q. Why do you believe that you were terminated as  
24 opposed to simply transferred?

25 A. Because I went out of one department and into a

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S. Gareth Graham

260

1 completely different department.

2 Q. And that was not your choice?

3 A. No, ma'am.

4 Q. That was Judge Hoffer's choice?

5 A. Well, that's interesting, too. I don't know  
6 whose choice it was because I don't know who employs me.

7 Q. When you say you don't know who employs you, what  
8 do you mean by that?

9 A. Be it the county did the investigation, and the  
10 Court, you know, provided me direction on where I was headed.

11 Q. Okay. Well, did you doubt that Judge Hoffer had  
12 the ability to transfer you?

13 A. I've never agreed with the action he took against  
14 me, Ms. Wallet.

15 Q. My question would be: Whether or not you agreed,  
16 did you have any reason to believe he did not have the  
17 authority to take some action against you?

18 MR. MacMAIN: Do you understand the question?

19 Do you mind if I attempt to rephrase it?

20 MS. WALLET: Sure.

21 MR. MacMAIN: What she wants to know is, it was  
22 not your decision to be transferred to your current position,  
23 but now I guess her question is do you know who had the  
24 authority to make the decision? And if you don't, you don't.  
25 If you do, you do. What she's asking is what you know.

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S. Gareth Graham

261

1 THE WITNESS: I don't know if he had the  
2 authority to do what he did.

3 BY MS. WALLET:

4 Q. Why is it that you don't know?

5 A. I think it's the same issue that's been debated  
6 for years, whether Probation staff is a court-related  
7 function or a county-related function.

8 Q. What do you think?

9 A. Oh, I think it's a court-related function.

10 Q. So if it's court related why didn't Judge Hoffer  
11 have the ability to transfer you?

12 MR. MacMAIN: Let me object. I think you're  
13 asking him really a legal conclusion on what he believes the  
14 law to be. I don't think he can answer that. He's told you  
15 what he thinks. I think going further why he -- his opinion  
16 on a legal issue I think would be inappropriate.

17 MS. WALLET: Well, I don't think I'm asking him a  
18 legal issue. I'm asking him why he believes that Judge  
19 Hoffer might not have the ability to transfer him. That's a  
20 fact, that's not a legal conclusion.

21 MR. MacMAIN: If you know, Gary.

22 THE WITNESS: I don't know.

23 BY MS. WALLET:

24 Q. Did you think that the county, i.e., the county  
25 personnel officer, would have the ability to transfer you?

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S. Gareth Graham

262

1 MR. MacMAIN: Same objection, but answer it if  
2 you know.

3 THE WITNESS: I don't know. I don't know.

4 BY MS. WALLET:

5 Q. Well, what did you think would happen as a result  
6 of an investigation of some complaint against you?

7 A. What did I think would happen?

8 Q. Well, let me be more precise. What did you think  
9 the procedure should have been? Someone makes a complaint  
10 about you. What did you think the procedure should have  
11 been?

12 A. I think the complaint should have been made to  
13 Judge Sheely initially and not to the county Human Relations  
14 division.

15 Q. And why do you believe that?

16 A. Because I considered him as the employer.

17 Q. Okay.

18 A. I mean, he's the man that hired and disciplined  
19 and reviewed our work, and we did 99.9 percent of our  
20 activities as court-related matters.

21 Q. Okay. And who would have investigated that  
22 complaint?

23 A. Probably the judge, if it would have gone to him,  
24 but it didn't.

25 Q. So you thought the judge should have done all of

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S. Gareth Graham

263

1 this?

2 A. Absolutely. You know, not Judge Hoffer.

3 Q. Now, if Judge Sheely had the ability to do it,  
4 why wouldn't Judge Hoffer?

5 A. Because the incident of complaints preceded any  
6 involvement of Judge Hoffer. Judge Hoffer was only on the  
7 bench in January of '98. The complaints that Ms. Varner was  
8 making had preceded all those. So his authority -- like  
9 Mr. MacMain said, I'm not trying to offer some legal  
10 explanations, but I don't know where his authority extended  
11 into the activities I had been alleged to have done prior to  
12 him sitting in the administrative judge's position on the  
13 bench. And he was, you know, he was put there in January of  
14 '98. And I was -- he made a decision against me in March  
15 9th, I think or March 7th, March 9th of '98, less than 40  
16 days thereafter. Because I was off two weeks for my mother's  
17 death and for my wife's grandmother's death. So there was a  
18 juncture of about 40 days of employment that I was under  
19 Judge Hoffer's jurisdictional bounds.

20 Q. And you didn't think that was long enough for him  
21 to reach any conclusion about your performance?

22 A. I didn't say that. No.

23 Q. What's the significance of the 40 days, sir?

24 A. That's the threshold of time that I considered  
25 myself under Judge Hoffer's purview of employment.

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S. Gareth Graham

264

1 Q. And you didn't think that was long enough?

2 A. No. That's just factually how long he was on the  
3 bench as president judge as an administrator of the Probation  
4 Department, during that juncture from January 1st till I was  
5 demoted and sent to the prison.

6 Q. Well, did you think he had long enough to judge  
7 your work performance?

8 MR. MacMAIN: Objection. It's been asked and  
9 answered.

10 THE WITNESS: It's his prerogative.

11 BY MS. WALLET:

12 Q. Would you agree, sir, that your performance  
13 evaluations have always been at least satisfactory, if not  
14 commendable?

15 A. I would think they were satisfactory and  
16 commendable, yes.

17 Q. Do you recall, sir, that the one area that you  
18 tended to be rated lower in was interpersonal relations and  
19 Affirmative Action?

20 A. You would have to show me those, because I don't  
21 recall that.

22 Q. Did anyone ever come to you and explain to you  
23 why you were rated lower in that area than in the other  
24 areas?

25 MR. MacMAIN: Object. He said he couldn't --



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S. Gareth Graham

265

1 THE WITNESS: I don't know what you're saying.

2 MR. MacMAIN: Hold on, Gary.

3 I object. He said he doesn't know that he was  
4 rated lower in those areas, so to ask him other questions  
5 you're assuming something he doesn't know whether it's true  
6 or not.

7 BY MS. WALLET:

8 Q. Did anyone ever speak to you, sir, about your  
9 conduct in the area of interpersonal relations or Affirmative  
10 Action?

11 A. No, ma'am.

12 Q. And that would be true of Mr. Osenkarski?

13 A. Mr. Osenkarski.

14 Q. Mr. Bolze?

15 A. Yes, ma'am.

16 Q. And who currently does your performance  
17 evaluations, sir?

18 A. Lyle Herr and I guess John Roller, I guess the  
19 two of them. And Mike Varner has done them in the past.  
20 I've been given three different supervisors, so it started  
21 with Herr, it went to Varner, now it's back to Herr again,  
22 so.

23 Q. And your testimony, sir, is none of those  
24 individuals has ever spoken to you about the area of  
25 interpersonal relations, slash, Affirmative Action?

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S. Gareth Graham

266

1 A. No, ma'am.

2 Q. Before you met with Judge Sheely did you know  
3 that you might possibly be terminated from your employment?

4 A. No, ma'am.

5 Q. Did you think that that was at least a  
6 possibility in the range of potential disciplinary action?

7 A. You're asking me what I thought on --

8 Q. Yes.

9 A. In regard to what? Whether I would be  
10 terminated? Is that what you're saying?

11 Q. I asked you, did you think that there was a  
12 possibility that you might be terminated before you met with  
13 Judge Sheely in or about July of 1997?

14 A. I don't know a thing about anything that was  
15 going on, and I didn't interrupt anything that was going on  
16 and I knew nothing about what was going on other than what  
17 the county had called me down on the 29th of April. So any  
18 subsequent investigation, any subsequent report, any  
19 subsequent actions, I knew nothing about and heard nothing  
20 about, period.

21 Q. Did you have any discussions with the judge's  
22 secretary about the possibility of your being terminated?

23 A. No.

24 Q. If the judge's secretary, and I'm speaking of  
25 Sandy, now, did she ever engage you in a conversation about

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S. Gareth Graham

267

1 your employment in the Probation office?

2 A. No, ma'am.

3 Q. When you went to see Judge Sheely the first time,  
4 I believe you told me you had two conversations with him,  
5 correct?

6 A. Yeah. I think I have that straight now. I  
7 wasn't very clear the last time, so.

8 Q. Okay. Well, tell me what you remember now about  
9 how many times you met with him and when.

10 A. I only met with him -- I testified earlier that  
11 Hank Thielemann came downstairs and I think he had summoned  
12 different people upstairs over the course of the events to  
13 find out what was going on, or what he knew, what they knew  
14 about what was going on. I'm not sure of that. That's just  
15 another rumor that passed around.

16 Q. I'm not asking you, sir, for rumors. I'm asking  
17 you to tell me how many times did you meet with Judge Sheely  
18 regarding --

19 A. I think twice.

20 Q. -- Ms. Varner's complaints?

21 A. Twice. I went up on my own after Hank said, I  
22 think he's going to transfer you, Gary. I said, what do you  
23 mean he's going to transfer me. And he said, you better go  
24 up there and just talk to him.

25 And so I went up and I asked if I could have time

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S. Gareth Graham

268

1 to talk to him. And I went in and I basically at that  
2 juncture said, Judge Sheely, this is not about sexual  
3 harassment in our office, it's about me having a consensual  
4 affair with Barb Varner.

5 Q. Just the two of you?

6 A. Yeah.

7 Q. Okay.

8 A. Then I think I got together with Dave Foster the  
9 next day at, like, 11 o'clock or something, or 11:30, right  
10 before lunch, I think we both went in.

11 Q. Okay. And who was there that time?

12 A. Just I think Dave Foster and myself and Judge  
13 Sheely.

14 Q. Do you remember anything more about what happened  
15 at that 11 o'clock meeting the next day?

16 MR. MacMAIN: You mean more than what he  
17 testified the first day of his deposition?

18 MS. WALLET: Earlier, yes.

19 MR. MacMAIN: Anything else you want to add to  
20 what you have already told us before?

21 THE WITNESS: Not really, no.

22 MR. MacMAIN: That's it, then.

23 BY MS. WALLET:

24 Q. And did you review something between the time  
25 that we took your first day of deposition and today that

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S. Gareth Graham

269

1 caused you to remember these things?

2 A. I just kind of recall, I was trying to separate  
3 that out and I was trying to -- and I had talked to my wife  
4 about it, and I said, you know, I was down there giving  
5 disjointed information the other day and probably driving the  
6 court reporter nuts because I couldn't remember the exactness  
7 of if I would have been in first or if I would have been in  
8 with David Foster. And then I said, I said -- and she didn't  
9 know because she didn't know when I went in. And I said, I'm  
10 almost positive I went in myself when Hank came down and said  
11 something to me, I went directly upstairs.

12 And then the next day I met with Judge Sheely  
13 and, you know, with Dave Foster at noon.

14 Q. Okay. And you answered that your wife was not  
15 present for either of these meetings, correct?

16 A. No, in ma'am. Not -- no.

17 Q. And did you ask your wife recently whether she  
18 recalled something different?

19 A. I think I reviewed that with her the other day  
20 after our testimony. And she said, I wasn't in there with  
21 you, she said.

22 Q. Did your wife tell you anything else that  
23 refreshed your recollection --

24 A. No.

25 Q. -- of these events?

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S. Gareth Graham

270

1 A. No, ma'am.

2 Q. Is her recollection generally better than yours?

3 A. I would think it might be, because I was pretty  
4 traumatized when I went in there and that's probably why I  
5 can't remember.

6 Q. And she wasn't --

7 A. She wasn't there.

8 Q. She wasn't traumatized?

9 A. Sure.

10 Q. Who is Jody Nelson?

11 A. I have no idea.

12 Q. Did you ever visit the homes of any of the  
13 probation officers who worked with you other than Ms. Varner?

14 A. I think I had been to Kerry Houser's apartment  
15 for a party. I think I had been to Deb Graeff's house at one  
16 point.

17 Q. For what reason?

18 A. For, might have been a party when she was  
19 retiring. That's all I can remember.

20 Q. Ever pick up any of the other probation officers  
21 at their homes to go on some work-related trip?

22 A. I don't recall, no. Mary Jo Keffer 25 years ago,  
23 I remember going to her house in Camp Hill.

24 Q. And who was she?

25 A. She was a probation officer. But that, I can

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S. Gareth Graham

271

1 just remember picking her up at her house. She wanted to be  
2 picked up at her house.

3 Q. Anybody else?

4 A. Not that I can remember, recall. I just can't  
5 recall.

6 Q. Did you ever visit any probation officer  
7 uninvited at his or her home?

8 A. No, ma'am.

9 Q. Did you know Lynn Dickerson?

10 A. Yes.

11 Q. Ever visit her home?

12 A. Yes, I did.

13 Q. On what occasion?

14 A. Under what circumstances or what occasion? I  
15 don't understand what you mean.

16 Q. Well, what do you remember about visiting Lynn  
17 Dickerson at her home?

18 A. Lynn Dickinson -- I have to go into a periphery  
19 here of a story to tell you why I was at her home.

20 Q. Fine. I have plenty of time, Mr. Graham.

21 A. Okay. What happened is Lynn Dickinson was one of  
22 the probation officers that was hired along with Barb Varner  
23 and Mark Galbraith when we hired the Family Preservation  
24 grant in probation. She was hired under that, those, that  
25 grant proposal. Mr. Osenkarski and Lynn Dickinson worked

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S. Gareth Graham

272

1 regularly on that grant reporting. Lynn basically took her  
2 summer internship and worked on that proposal. And it just  
3 so happened that Ms. Varner and Lynn Dickinson were in school  
4 together at Penn State and I guess they were friends or  
5 acquaintances.

6 And what happened is when Lynn Dickinson, after  
7 she was hired she decided not to take the position in  
8 Probation and go on further to pursue her master's degree.  
9 And I received a call at my home by Lynn Dickinson's husband  
10 who is an attorney with the Governor's office, and he was  
11 distraught because Lynn Dickinson had received a call from  
12 Kerry Houser at her personal residence. And he was angry  
13 because Kerry evidently said that in glossary or in  
14 conclusatory form, nobody in Probation likes Lynn and she's  
15 really not welcome. And this man was devastated and he said,  
16 can you share any light what did Lynn do wrong. And I said,  
17 she did nothing wrong.

18 And I went down and I talked to him and I talked  
19 to Lynn about that situation, and that's the only time I was  
20 at her home.

21 Q. Were you invited to the home on that occasion?

22 A. Her husband called me and said, can we discuss  
23 this.

24 Q. Did he invite you to his home on that occasion?

25 A. I think so is what I recall. I don't remember,



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S. Gareth Graham

273

1 like, being inside. I think I even talked to him on the  
2 street or at the front door. I don't remember ever being  
3 inside the home. I just remembered it was located near  
4 Rolling Green cemetery.

5 Q. Do you remember visiting the Dickinson home on  
6 any other occasions?

7 A. No. No, none, that I recall.

8 Q. Only one time?

9 A. Only the time when he was extremely upset about  
10 Lynn getting this phone call from Kerry and saying that  
11 nobody wanted her in the Probation office.

12 Q. Did you hear that directly from Lynn or just from  
13 Lynn's husband?

14 A. From her husband.

15 Q. Why do you think her husband called you?

16 MR. MacMAIN: Objection. If you know why her  
17 husband called you. If you don't, then say you don't.

18 THE WITNESS: I have no idea why he called me  
19 other than --

20 MR. MacMAIN: If you don't know --

21 THE WITNESS: I don't know. I won't summarize.

22 BY MS. WALLET:

23 Q. Had he known you previously? Is really the  
24 question.

25 A. No, ma'am.

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S. Gareth Graham

274

1 Q. You never met him before?

2 A. No, ma'am.

3 Q. Since you've been at the prison, sir, did you

4 brag about having sexual relations with anyone?

5 A. No, ma'am.

6 Q. Did you brag about someone that you had sexual

7 relations with and the father-in-law came to complain?

8 A. You'll have to be more specific. I have no idea

9 what you're talking about.

10 Q. You have no recollection of that?

11 A. What, a father-in-law -- I don't have any idea

12 what you're talking about or what your question is.

13 Q. Did you ever date someone whose father-in-law

14 works at the prison?

15 A. I don't know who you're referring to.

16 Q. Did you meet with Mr. Foster in your offices in

17 the Probation Department?

18 A. I think Mr. Foster came into my office the day we

19 were going to go up to see Judge Sheely.

20 Q. And did you meet with him there?

21 A. Sure.

22 Q. Do you recall how long that meeting was?

23 A. Probably a couple minutes. Less than five

24 minutes.

25 Q. Had you met with Mr. Foster on any other occasion

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S. Gareth Graham

275

1 prior to your going to meet with Judge Sheely at which

2 Mr. Foster -- let me try that again.

3 A. I'm following you so far.

4 Q. Did you meet with Mr. Foster at any time except  
5 for the meeting in your office before you went to see Judge  
6 Sheely and Mr. Foster accompanied you?

7 A. No, ma'am.

8 Q. Did anyone in the Probation office ever tell you  
9 not to raise your voice to Barbara Varner?

10 A. No, ma'am.

11 Q. No one?

12 A. No one.

13 Q. Did Mr. Osenkowski share his corrective action  
14 memo with you? I'm going to show you --

15 A. You'll have to remind me.

16 Q. -- what has been marked previously as Osenkowski  
17 Deposition Exhibit 2.

18 A. I don't recall, ma'am. I don't remember it.

19 Q. Did he tell you in or about June of '97 that he  
20 was preparing some sort of a corrective action plan?

21 A. No. He basically told me that he was researching  
22 the, you know, the correction course or the proper course to  
23 take for sexual harassment complaints. That's what I  
24 remember him telling me about.

25 Q. You don't remember him talking to you at all

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S. Gareth Graham

276

1 about what he was doing in response to Ms. Varner's  
2 complaints?

3 A. No. That's basically what he felt, how he, what  
4 he wanted -- no. I don't know. He didn't tell me anything  
5 of what he was including or investigating in regard to a  
6 corrective action plan.

7 Q. Did he ever suggest to you that you should attend  
8 some kind of sexual harassment training?

9 A. No, ma'am.

10 Q. Did he ever tell you that he thought you should  
11 attend some management training?

12 A. Sure.

13 Q. When was that?

14 A. I think Tom Boyer and I both went to management  
15 seminars, you know. I don't know when, but I recall going to  
16 one or two that were put on for management.

17 Q. And was it after June of '97?

18 A. It was after I was promoted to supervisor, I can  
19 tell you that. I don't know when it occurred after that.

20 Q. So you're not sure whether it was before or after  
21 June of '97?

22 A. I think it was after, well, whenever I was  
23 promoted.

24 MR. MacMAIN: She's asking you very specifically,  
25 Gary, after these complaints were made. Do you know if your

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S. Gareth Graham

277

1 management training was after those complaints were made? Or  
2 before, or alternatively if you don't know, you don't know.

3 THE WITNESS: No. It preceded that, the  
4 complaints.

5 BY MS. WALLET:

6 Q. And were you aware of any kind of creation of a  
7 committee that was to handle complaints of any issues within  
8 the Probation office?

9 A. I recall Joe talking about that.

10 Q. What do you recall about that?

11 A. Just that we want to be able to resolve the  
12 differences in the amount of animosity that was generated by  
13 the split of these staffs, and he felt it was counter  
14 productive and unhealthy. And he said, you know, where Bolze  
15 never left anybody in on the administrative side to make  
16 corrections, he was not going to do that. He was going to  
17 try to resolve differences between people, you know, in a  
18 least restrictive setting or least, something like that.  
19 That's what I remember.

20 Q. Do you know whether such a committee was ever  
21 created?

22 A. I think he went around and asked people if they  
23 would be willing to sit on a panel or whether they thought  
24 that was a good idea, to try to lower the office commotion.

25 Q. Did he ask you?

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S. Gareth Graham

278

1 A. No, I don't really think he asked me.

2 Q. How do you know he asked others?

3 A. Because I think he went around and I knew about  
4 him going around. Specifically asking me individually about  
5 it? I don't recall him doing that.

6 Q. Do you know who he asked about whether or not  
7 this committee was a good idea?

8 A. I would imagine he --

9 MR. MacMAIN: She's not asking for guesses. Do  
10 you know of any specific people that you have firsthand  
11 knowledge of who he asked to be on the committee? And if you  
12 don't, you can say that.

13 THE WITNESS: No, I don't have specific  
14 knowledge. He polled the offices, his words.

15 BY MS. WALLET:

16 Q. So you know this because of what Mr. Osenkarski  
17 told you, not because of what you observed?

18 A. I just don't remember.

19 Q. Have you ever gotten into trouble because of your  
20 anger management?

21 A. No, ma'am.

22 MS. WALLET: Let's mark as Deposition 4 a  
23 one-page document.

24 (Graham Deposition Exhibit No. 4 was marked.)

25 BY MS. WALLET:

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S. Gareth Graham

279

1 Q. Do you have that front of you, sir?

2 A. Sure.

3 Q. Tell me if you're the S. Gareth Graham listed on  
4 this memorandum?

5 A. Sure.

6 Q. Do you believe you got a copy of this memo in or  
7 about June of 1997?

8 A. Sure.

9 Q. And did someone hand you this memo? How did you  
10 receive it?

11 A. I think Joe gave it to me.

12 Q. Did you talk with him about this memo at the time  
13 that he gave it to you?

14 A. I think so, yes.

15 Q. What do you recall about that conversation?

16 A. He basically had said that when a sexual  
17 harassment complaint has been lodged it's a suggestion that  
18 the parties are separated so that there isn't anymore hostile  
19 work environment or there's no more, what's the right word,  
20 there's just no more interaction between the parties.

21 Q. And did he use the term hostile work environment?

22 A. Probably.

23 Q. What did you say to him?

24 A. And I said, well, that's your decision to make.

25 Q. Were you happy about this decision, or unhappy?

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280

1           A.       I didn't agree with it.  
2           Q.       Did you tell him that?  
3           A.       Sure.  
4           Q.       What did you tell him?  
5           A.       I told him I didn't agree with it.  
6           Q.       What did he say?  
7           A.       That's the way it's going to be.  
8           Q.       Did you follow this memo?  
9           A.       Absolutely.  
10          Q.       Do you know who was placed as supervisor, other  
11 than Mr. Miller, over Ms. Varner?  
12          A.       Just Denny Drachbar. I mean, he was to fill in  
13 if Sam wasn't available.  
14          Q.       Do you know whether anyone else actually  
15 supervised Ms. Varner after this memo in June of '97?  
16          A.       No, I don't. I don't know who else would have  
17 supervised her.  
18          Q.       Were you told at any time, sir, after June 13 of  
19 1997 that you were not to associate with Ms. Varner?  
20          A.       I don't understand your question on association.  
21          Q.       Were you told to stay away from her?  
22          A.       No.  
23          Q.       You continued to work in the same office after  
24 June 13 of 1997 until you were transferred to the prison, and  
25 I believe that was effective --



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S. Gareth Graham

281

1 A. March '98.

2 Q. -- March of '98.

3 A. Yes, ma'am.

4 Q. Where was your office in relation to Ms. Varner's  
5 office between June of '97 and March of '98?

6 A. My office was back the hall from hers. She had a  
7 cubicle, enclosed office out where the secretaries were, and  
8 my office was in the back, in the back of the office.

9 Q. Did you have to go past her cubicle to exit the  
10 office?

11 A. Yes, I did. I had to go out into the secretarial  
12 area. I don't know whether you're claiming that's directly  
13 past her -- it's a small quarters so it's probably within 10  
14 feet of her office, yes, ma'am.

15 Q. There was only one exit from the office at that  
16 time, correct?

17 A. That's correct.

18 Q. And that exit was essentially past Ms. Varner's  
19 cubicle?

20 A. It was out into the secretarial area of the  
21 office, and her office was back in the far corner of the  
22 secretarial area of the office.

23 Q. Did you have occasion to work on the same cases  
24 after June 13, '97, until you were transferred to the prison  
25 in March of '98?

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S. Gareth Graham

282

1           A.       I just don't recall. I might have had other  
2 cases with her.

3           Q.       You don't remember?

4           A.       I don't remember.

5           Q.       Now, after you were transferred to the prison you  
6 participated in some kind of a sexual harassment seminar,  
7 correct?

8           A.       Yes, ma'am.

9           Q.       And it was after you were transferred to the  
10 prison?

11          A.       It was before and after.

12          Q.       Do you recall a sexual harassment seminar after  
13 you were transferred to the prison?

14          A.       Sure.

15          Q.       And was Ms. Varner also in attendance at that  
16 seminar?

17          A.       Not that I recall. I just don't know. I don't  
18 think so.

19          Q.       Do you believe that all of the probation  
20 officers, adult and juvenile, were required to attend this  
21 seminar?

22          A.       It was a county -- the one at the prison was a  
23 county Human Resources seminar.

24          Q.       My question, sir, was: Were all of the probation  
25 officers required to attend this Human Relations seminar?

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S. Gareth Graham

283

1 MR. MacMAIN: Is your question at the same time,  
2 or just at some point they all had to take it?

3 MS. WALLET: At the same time.

4 MR. MacMAIN: Do you understand?

5 THE WITNESS: No. I'm confused.

6 MR. MacMAIN: She wants to know if the training  
7 that you recall taking at the prison, whether the entire  
8 department was there at the same time. If you know.

9 THE WITNESS: I've had, like, two or three  
10 different or yearly sexual harassment trainings that have  
11 been offered at the prison, and it's my recollection that I  
12 don't think there was any probation officers in attendance at  
13 any of those.

14 MR. MacMAIN: It perhaps would be easier, I don't  
15 know if you want to focus, I believe that's one of the  
16 assertions in the Complaint. Is that the one you're  
17 referring to?

18 THE WITNESS: Well, that one happened at the  
19 courthouse, though, the one she's referring to in her  
20 Complaint. That was the one that was set up by I guess the  
21 judge and the Human Relations Commission and/or -- and Joe  
22 and the rest of the people that used Mazzitti and Sullivan  
23 to.

24 BY MS. WALLET:

25 Q. Okay. Do you know when that was, sir?

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S. Gareth Graham

284

1           A.       You'll have to give me the date. I don't know.  
2       Or judge, you know, can recall, maybe he can recall when that  
3       was.

4           Q.       How about October 17 of '97?

5           A.       Yes.

6           Q.       Okay.

7           A.       But that wasn't at the prison.

8           Q.       I had originally asked you about seminars after  
9       you were transferred to the prison. But this was before you  
10      were transferred, correct?

11          A.       Yes, ma'am. Yes, ma'am.

12          Q.       So you have a recollection of the October 17,  
13      '97, Mazzitti and Sullivan training?

14          A.       Yes, ma'am.

15          Q.       Okay. And who was present at that training?

16          A.       A representative from Mazzitti and Sullivan, and  
17      all the probation officers.

18          Q.       Were there other county employees at that  
19      seminar?

20          A.       There might have been. I just don't recall.  
21      There might have been other people.

22          Q.       Was Ms. Varner present at the October 17, '97,  
23      seminar?

24          A.       Yes, ma'am.

25          Q.       Where did you sit in relation to her?